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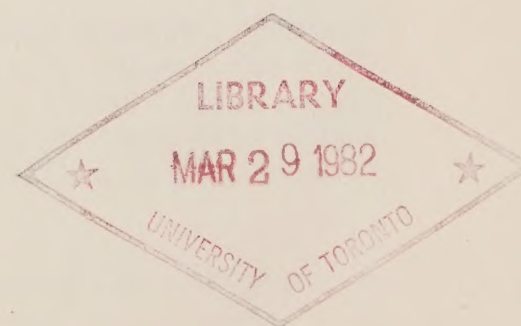
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STANDING COMMITTEE ON PROCEDURAL AFFAIRS

ORGANIZATION

THURSDAY, MARCH 27, 1980



MEMBERS OF THE STANDING COMMITTEE ON PROCEDURAL AFFAIRS

CHAIRMAN: Breaugh, M. (Oshawa NDP)

VICE-CHAIRMAN: Davidson, M. (Cambridge NDP)

Charlton, B. (Hamilton Mountain, NDP)

Mancini, R. (Essex South L)

Rotenberg, D. (Wilson Heights PC)

Rowe, R.D. (Northumberland PC)

Ruston, R.F. (Essex North L)

Sterling, N.W. (Carleton-Grenville PC)

Research Officer: Eichmanis, J.

Clerk: White, G.



LEGISLATURE OF ONTARIO

STANDING COMMITTEE ON PROCEDURAL AFFAIRS

THURSDAY, MARCH 27, 1980

The committee met at 10:12 a.m. in room 151.

ORGANIZATION

Mr. Chairman: I see a quorum. We have a matter referred to us from the government House leader and from the Clerk of the House on private bills procedure. Graham, do you want to go over that?

Clerk of the Committee: The memo which I believe you have sets out the problems that were encountered on the private bill procedure last year with the City of London bill. It sets out possible solution and asks for a comment from the committee.

The covering letter from the government House leader says: "We would, with your committee's concurrence, put the motions to the House at an early date. Your committee would not need to report to the House." This is more of an informational conveyance than a request for action on our part.

Mr. Rowe: What they recommend is approved by the legislative counsel, I understand. It will properly legalize the matter. Apparently there is something out of order in the commissioners of estate bills.

Mr. Ruston: With the commissioners of estate bills' report?

Mr. Rowe: Yes.

Mr. Chairman: The recommendation is on the second page. It's recommending the fourth alternative, to amend the standing orders so that estate bills stand referred to a standing committee immediately on receipt of the report of the commissioners of estate bills. Is everybody generally in agreement with that?

Mr. Ruston: That is where Mr. Lewis says, "Where the bill, or any part of it, is reported favourably by the commissioners the bill, or that part favourably reported, together with the commissioners' report, shall stand referred to the appropriate standing committee"? Is that what we're really looking at?

Mr. Chairman: That's the recommendation from both legislative counsel and the Clerk.

Mr. Rowe: That rectifies those others in there. It's difficult to understand it legally if you're not tuned into that sort of thinking, but they recommend it.

Mr. Ruston: I came in on a committee sitting in for someone in our party on that London bill. I know there were some problems with regard to it.

Mr. Chairman: The recommendation then would be simply to recommend that we are in agreement that the bill and the report stand referred to the appropriate standing committee. Apparently it does require a change in the standing orders, but for some reason the government House leader wants to change it.

Mr. Ruston: Apparently so. They want to do it on their behalf and not have it as a committee report. That would avoid going through the procedure of a report from this committee.

Mr. Rowe: It's just a matter of convenience. If we agree with it, it could be handled very easily by introducing a report and passing it. That's the message I get. Is that not right?

Mr. Chairman: I have a small philosophical problem with that.

Mr. Ruston: As long as we're in agreement with it, I don't know of any other way to handle it. I suppose it's simpler to let the government House leader to do it.

Mr. Rowe: If everyone's in agreement, I don't see any problem with it.

Mr. Chairman: Can I have a motion?

Mr. Ruston: So moved.

Mr. Rowe: I second it.

Mr. Chairman: The interesting question has occurred, what have you just moved?

Mr. Ruston: We moved that we accept the recommendation here and that it be referred to the House leader for action by the government.

Mr. Chairman: Any further discussion on the motion?

Those in favour? Any opposed?

Motion agreed to.

Mr. Chairman: The second matter on the agenda is a piece of correspondence from Elie Martel on standing

order 17. It indicates what apparently is an oversight. When the committee recommended that the House on adjournment or upon prorogation gets an indication of an approximate date, we did not include the words "or upon prorogation."

So the standing orders now require simply that when the House is going to be adjourned the government House leader will give an approximate date. There has not really been a problem with this. The government House leader has been willing, upon prorogation, to indicate an approximate date, but it does indicate that perhaps we should include that in the standing orders.

Mr. Rowe: I don't know why we need tie it down that firmly.

Mr. Chairman: It is not an attempt to tie it down. Remember in the committee we had this argument about whether we would tie it down to a specific date or whether we would simply ask for an indication. At that time the committee opted for the indication by using the words "an approximate date." It's kind of an announcement of intention. We did so when the House was adjourned, but we did not include the word "prorogation."

There appears not to be a major problem with this. It's a question of whether the committee wishes to amend the standing orders to include the two circumstances.

Mr. Ruston: Personally I think there should be some date given, within reason. I think it's done in the federal House. Really, in the past when you left here you never knew whether you were coming back in a month or four months. There was just nothing whatsoever. I really think we should have something. Whoever is in power should be able to indicate within a reasonable length of time when they expect to open the House again.

Mr. Rowe: I think the word "approximate" is there, isn't it?

Mr. Chairman: Yes.

Mr. Ruston: Within a couple of weeks or at least a week or something, we should be able to know. People plan vacations the year round nowadays. I really think there should be something indicated.

Mr. Rowe: They generally have a period in which they look towards coming back, but you never know what big event might take place in the meantime; maybe an election at another level or something like that, as has happened. Also the government is responsible for preparing the program.

I don't think that's any great problem in their minds. It usually works out to be about the same length

now. If it's a lengthy agenda they would come back earlier. If it's not so lengthy then they wouldn't normally come back that early. I don't think that's the problem that it used to be.

Mr. Chairman: So we have general agreement. Could I have a motion to that effect?

Mr. M. Davidson: I would move, Mr. Chairman, that we amend standing order 17 by adding thereto the words "or upon prorogation" to the end of the standing order.

Mr. Chairman: Any further discussion on the matter?

Mr. Rowe: Was it just an oversight that it wasn't put in?

Mr. Chairman: Yes.

Motion agreed to.

Mr. Chairman: The next item--we don't have a long report on that one--committee travel. Staff seems reluctant to put together a second report on the matter. I don't know why.

Mr. Rowe: Past or future?

10:20 a.m.

Mr. Chairman: You may recall that the committee had some difficulty--to put it as politely as I can--adjusting the schedules and what not. I take it that the committee is still of the intent that you would like to arrange a visit to the federal House. It would seem logical to me that you'd want that House to be in session, so we're talking the end of April or some time in May. The nature of such a visit would include meetings with House leaders, with the Speaker, with staff, and perhaps with some other people. I just want to get some confirmation that the committee is still of a mind to do so. Is that correct?

We will attempt to make such an arrangement. It has been suggested by the government House leader that the committee should perhaps visit Westminster. Are there any comments or suggestions about that?

I would remind you that the committee has on its record a motion to visit Westminster. The motion also includes some other places. The difficulty we had was that we could not arrange scheduling. People were taking vacations and it was not possible. Then there was some question as to the agenda for such a thing.

But I want to point out to you, if the committee has an inclination to visit Westminster or any other parliament of that nature arrangements for that take

some time. We would have to arrange for the committee to be scheduled to sit. We are most likely talking about some time during the summer period. If we are to proceed with that I have to have a pretty clear indication from the committee that you are deciding to go and that you are making a personal commitment to be there, or at least we know the game rules.

But we cannot proceed on the basis that we set up this kind of a visit to Westminster now and when it comes time to actually make final arrangements half the people don't go, which is what we ran into the last time. Before I would set the staff about that kind of correspondence again I would want a clear indication as to who will go. It may not be necessary, if it's not possible, for all members of the committee to go, but it certainly would be logical that at least one from each party go and that we have a quorum. Could I have some kind of general discussion about that?

Mr. Rotenberg: A vote would come beforehand, wouldn't it, Mr. Chairman?

Mr. Chairman: Well, I'm just trying to nail it down.

Mr. Rotenberg: I guess I said last year I was prepared to suggest that I think that there is value in this committee going there. I don't think it's a junket. I think it's worthwhile for the committee to do so. I am at this stage prepared to support that kind of a trip. Subject to something else unusual happening, I'm prepared to go.

I can't commit myself 100 per cent that I would go, but that would be my intention, if a majority of the committee felt that there was value in that. There's no question in my mind that a visit to Washington is most valuable. That's my opinion. Some shared my opinion and some didn't, and unless those who don't change their minds, I don't think we have a viable trip.

Mr. Rowe: It's a year later and I think things might have happened there that we weren't aware of when we were over there before. I would go along with it.

Mr. M. Davidson: I agree with what Mr. Rowe just said. If it had merit a year ago, certainly it should have merit now.

Mr. Rowe: It should have more merit.

Mr. M. Davidson: Yes.

Mr. Ruston: Would the House be in session at that time?

Mr. Chairman: Westminster does sit during the course of the summer.

Mr. Rowe: They were sitting when we were there in August.

Mr. Chairman: Yes. We would have to check their schedule.

Mr. Rotenberg: We would have to go when they're sitting.

Mr. Chairman: I think, for practical purposes, unlike perhaps a brief excursion to Ottawa, our travel arrangements would indicate that the committee could not go while this House was in session. I'm open to the idea that we do, but we have a difficult time getting quorums as it is.

Mr. Ruston: I could probably say right now that at least one member of our party would attend. I'm not sure whether two would. I can't really give you that commitment today, but I would think that one would.

Mr. Chairman: The only reason I'm being a bit of a stickler on this is that if some of the members of the committee are going to get some experience with another parliament, it then seems only fair to me that all political parties that are on the committee have at least a representative there, so that you have equal footing when you come back to discuss whatever changes might be proposed.

If it were when the House was not in session perhaps we might even entertain the notion, as we have on previous occasions, that some substitution be allowed for that particular purpose so that at least someone in your caucus has been there.

I see agreement again. Having seen it once before, we will try it. The mechanics of the thing are not quite as simple as going through the federal House so it will take a little while. We will take another shot at it.

I discussed with the staff that, perhaps, on the visit to the federal House what we would try to do would be to do our travelling on Sunday and be there for Sunday. I am trying to find some time when the federal members would be free to come and have casual conversation. I am not sure that a Sunday evening is the best time for anybody, but it's one of the few times I can think of when the House wouldn't be in session. Particularly with staff and with Speaker or House leaders, there would be some difficulty hauling them out of Parliament while it's in session.

What I was thinking was that we would go down to have an informal thing on a Sunday evening, be present

for Monday and perhaps part of Tuesday for more formal meetings, and return either Tuesday evening or Wednesday morning, something like that.

Do you have any ideas about that? I really am at a loss as to how to do this.

Mr. Rotenberg: Would the federal people be there on a Sunday evening?

Mr. Chairman: That would be the question.

Mr. Rotenberg: Most of them go home on the weekends, I think. I would doubt that you would be able to see them.

Mr. M. Davidson: There is something, of course, to what Mr. Rotenberg is saying. As long as there are going to be people there who we can talk to--I don't relish spending Sunday night in Ottawa just for the sake of being there.

Mr. Chairman: I've been there on a Sunday night. It's not nearly as exciting as Sunday night in Oshawa.

I'm not sure what the arrangement would be, but the kind of time frame I'm thinking of is two to three days, trying to work an evening in when the members would be free to come and do something of a less formal nature than sitting down.

Mr. Rotenberg: Do they have evening sittings every evening in Ottawa?

Mr. Chairman: They have been.

Mr. Rotenberg: If they are similar to what we are, and they must be -- I can think on a Monday or a Tuesday night unless there's a major vote in the House -- if they are droning on with the estimates of the Department of Indian Affairs, or something, I'm sure we could get a lot of people either in a committee room at the House of Commons, or in a hotel room or somebody's suite.

I'm sure there wouldn't be any trouble getting people to talk to us while the House is in session, the same as if the committee came here when our House was meeting. We could see how it was going on a Thursday night, because nothing goes on in the Legislature on a Thursday night, unless we get called in for a vote. The rest of the time I think we could get people to come and talk to us, even though the House is physically sitting because they're not there except for question periods.

I don't mind going on a Sunday night if we can get people but it seems to me we would do better during the week.

Mr. Rowe: I really think the best use of our time would be to arrive there Sunday evening. They may want to meet us and have a reception or we could have our own. Then we could be ready for a full day on Monday. If you wait to go on Monday then most of that day is gone.

Mr. Ruston: The morning's gone.

Mr. Rowe: Yes. I would think we should arrive there in Ottawa on the Sunday afternoon or Sunday evening so we could have a full day Monday lined up and part of Tuesday.

Mr. Chairman: The first thing I would like to settle, I would not be happy with the notion that we fly down and fly back on the same day and meet 25 people in the course of that. I would like to have a couple of days there. It could be a Sunday, it could be a Wednesday. Basically what I was thinking of was to try to get a schedule so that the members of this committee would not miss a lot of House time here.

Mr. Rotenberg: If you're thinking of going when this House is in session, it might be better to go for Wednesday, Thursday and Friday. Tuesday is usually the night when there is legislation and votes, whereas Thursdays are not all that critical.

Mr. Ruston: Thursday you have your private vote. Most people seem to want to be here on Thursday at six o'clock.

10:30 a.m.

Mr. Charlton: I'd like to stay on the agenda, but we'll finish this before we get into the House votes.

Mr. Chairman: Okay, are we in general agreement then that we're talking about something like two and a half or three days, whatever will be best, at their convenience basically, when they might be available?

Are there any people in particular who members of the committee would like to meet? We're thinking of the House leaders for the three parties, obviously people from the Clerk's office, the Speaker of the House.

Mr. Charlton: I had raised with the committee last fall when we were originally discussing a trip to Ottawa the possibility of us having a session ahead of time with the present government's--in their former manifestation--chief whip, who was rather intimately involved in discussions of changes that were being proposed in Ottawa. He is still now not an elected member and would probably be available to spend some time with us prior to going to Ottawa if the committee feels that might be useful in terms of discussing and

getting briefed on things that are actually in the process in Ottawa.

Mr. Chairman: I think maybe one of the things you might want to do is to have a little session here before we go.

Mr. Charlton: Yes.

Mr. Chairman: Maybe bring Gus McFallon in or some other people in. Whether you want to do that formally in a committee session or just informally, I'm sure we could arrange something like that.

Mr. Ruston: Maybe it would give us an insight as to what we should be looking at and so forth.

Mr. Chairman: Okay, are we generally in agreement then on that? Okay, we'll attempt to do that.

The next matter is the agency review. I wanted the members to have as well this morning copies of the agencies review committee report, which I thought was a good report when we wrote it a year and a half ago. I still think it's a good report in its present form, although it's not quite as concise as ours.

Is it the feeling of the committee that you would like to invite members of the government's agencies review committee to come here so that we could have a little chat? Essentially I see a very common line being taken by both committees in their recommendations to the House. We have attempted on a couple of other occasions to have joint meetings where we could compare notes and sort out where we're going and what kind of progress is being made.

It would seem to me to be a reasonable thing, therefore, to ask either Mr. Pope, who chairs this committee for the government, or other members of the committee to attend and have a general discussion about their report. This report will not be debated in the House because it's not a committee of the Legislature reporting. Are there any comments? Is that an agreeable idea?

Mr. Rowe: I think we should, if nothing else but to prevent duplication. Are the aims and objectives of both our studies the same? Are they approaching it from one direction, one angle, with one purpose and one motive, and are we approaching it from another? I'm not familiar. I'm really asking to see because I think we should prevent duplication if we're all doing the same thing.

Mr. Chairman: From my personal point of view, I've met with the Premier on this and he assures me that there is an attempt being made by the staff of the

agency review committee to avoid duplication. It appears to me that if anything this review committee on the part of the government members has accepted many of the proposals that we put forward.

Mr. Rowe: With the same agencies?

Mr. Chairman: Yes. If I had some bones to pick with them, I suppose it would be a couple of things. We had suggested at one time that there be a bit of a moratorium put on new agencies. While everybody is studying this there continues to be quite a proliferation of new agencies in the field.

I'll just put it this way: we have some difficulty establishing the real effect of the review committees on the agencies themselves. Some are going to memoranda of intent as to what the agency is supposed to do. They recognize again in their report this matter of conflict of interest which continues to be a problem.

There are a number of areas of common ground. If anything, I think that we have put forward some ideas which they are now accepting. It's a question of whether these ideas are being implemented. I think it would be useful to have a chat about what the common ground is, what the state of the art is.

I notice that we're at the state now where we actually have lists of what the agencies are, although I must say that the numbers which the agency review committee came up with do not correspond with our investigations in the field. They have, I think, 602 agencies listed among the various ministries. The last count that we were able to get was somewhere around 780.

Mr. Rowe: I think it's a matter of definition.

Mr. Chairman: Yes. I also noticed that the agencies review committee uses the word "advisory agencies" a great deal, so that there are a number of other regulatory agencies which are not listed here.

There is also the matter of whether or not the agencies table an annual report, which is another way that a rather large number of them escape anybody's notice, by simply not telling anybody that they're around, which is a rather clever device. Any other comments about that?

Mr. Charlton: It would seem to me that any dialogue that we can have with this government review committee would be useful for several reasons. One, as Mr. Rowe mentioned, it doesn't make sense for us to end up doing the same things at the same time and wasting time. Secondly, it seems to me that one of the things that they're looking at, in addition to reviewing agencies, is looking at the review mechanism itself. It

might be useful for us as a committee of the House to get into that dialogue as well.

Mr. Chairman: Any other comments? I take it then you're in agreement that we will schedule a meeting with them?

Mr. Ruston: I think we should definitely get into a meeting with them before we really get into any more of our areas.

Mr. Chairman: The next item of business is that staff has some recommendations for the committee. We're at that state where we are narrowing down those agencies which we have not reviewed before and where it may make some sense to proceed with the preparation of some reports. John, would you like to go over this?

Mr. Eichmanis: On the first page you will notice that I have listed some agencies that have not been reviewed in the past and therefore would be subject to review this year or at a later date. As I mentioned here, members may want to change any of these, add or delete. I would caution, as Peter found out last year, I think six is the optimum number that could be done in terms of the kind of interviews that need to be done, the kind of information that has to be collected and put together in a package and so on.

In addition to looking at the actual agencies, I think perhaps some consideration should be given to the question of whether it would be useful before the actual meetings on the agencies occurs in the fall, whether a separate meeting should take place, at which the staff would go over information collected on each of the individual agencies, to familiarize the members with the workings of that agency, and for the members to ask for more information about those agencies. That may be useful for the members.

In addition, it may be useful for members to make visits to the individual agencies considered to get an idea of the day to day operation of those agencies to discuss matters of interest with the staff of those agencies. Again, there is some problem deciding which agency should be toured. Perhaps, as I mentioned here, it could be left to the staff after they have interviewed or gone on tour of those agencies. Then staff would make recommendations as to which would be most appropriate to it.

Following is the question of whether the committee would want to have interested individuals or groups appear before the committee when particular agencies are reviewed.

10:40 a.m.

In the past I understand the process has been to merely place advertisements about the hearings in selected publications. The question is, should the staff be instructed to actively seek out individuals or groups to appear or should the former process be relied on, namely, leaving it up to the individuals to come before the committee?

Mr. Chairman: I think, if I might generalize about it, you might recall the discussions we had at the end of the last review period where several members indicated that there was kind of one dimension being considered here, some research being done by our own staff which is extremely limited, and then those people who actually head up that agency are invited before the committee, and that we would try to attempt to find some means whereby other dimensions could be added.

In some cases it is not a very practical suggestion to say that you go and visit the site of their offices and meet their staff. That may be of some convenience to them in terms of dragging charts and what not around, to let them show you if they do run an operation what the operation is about. In others that is not a very practical suggestion.

The matter, which we wrestled with a couple of times, of trying to get someone else's viewpoint about whether the agency is workable or not is also rather difficult. We have tried advertising and that was not terribly successful. We have provided notice where free publications were available; again, that was not terribly successful.

I think it would be my suggestion in this year's reviews that we attempt to be a little more flexible in terms of format, and that we do try some of the things that John has suggested in the report here.

Where it seems a reasonable thing to do to go and visit an operation, where there is an operation to visit, we might do that on one or two occasions to see what that's like. Where it is possible to identify a group who may have appeared before the agency or may have some comments to make, has some experience with it, and we can identify who that group is, we can invite that group to come as well, but I'm not sure we have a good mechanism for that identification process.

I am certainly prepared to hear any suggestions that anybody has. I guess all I'm saying is that in the reviews of the agencies that we do this year we attempt to inject some flexibility into it, and that may include visiting an on-site operation, listening to someone who has had some problems with an agency or supports what an agency does. I think we will have some difficulty identifying those people, but where it is possible we can make provision to hear them.

Do you have any comments about any of that?

Mr. Ruston: Maybe our meeting with Mr. Pope might help some. I can see from your remarks that we're just not sure if we're being flexible enough in having someone who maybe has had some problem or somebody who has had good results in dealing with some agency. I would be very reluctant to ever get into the point of having just public hearings that could get involved like that. Maybe we could get some more information from Mr. Pope as to what they're doing.

If our guidelines are more or less as I understand they are, then I am not sure. What we did last year seemed more or less satisfactory to me, and if we can deal with the ones that we think are involved in areas that maybe we ourselves have reservations about--I was just making a note here of certain ones; everyone has his own ideas about which ones we should see and I'm just checking off some that to me were more important than other ones, as to their operations.

I just don't know how structured we can be and yet I would be leery of getting involved in a more or less public hearing situation like some of the committees have got into. Just where you saw it off, I'm not sure.

Mr. Chairman: If I could make some suggestions it might help to clarify this. If you look over the list of the suggestions that John has got there, there are some which you can look at and you can immediately see that it wouldn't be difficult--for example, with the Ontario Labour Relations Board. That is perhaps one where it wouldn't make a lot of sense to go and tour their operation, though they do have offices, but it would be relatively easy to identify groups which have dealings with the labour relations board.

There are several management organizations and corporate associations there which would be easy to identify and might have some comments because they work regularly with the board; obviously the Ontario Federation of Labour and perhaps some of the unions. So that might be one where, though it wouldn't make sense to tour the site, it would be relatively easy to identify groups who use the agency a great deal.

Mr. Ruston: With some fault to find or some aspect of their operations that they'd like to bring to our attention. Yes, I can understand that.

Mr. Chairman: There are some others here, for example, the Ontario Educational Communications Authority, where I don't know where you'd start identifying people who use that unless you went to everybody who watched that channel. But it would be an occasion where a tour of the site would offer you some

dimension of the kind of operation they have and the complexity that's there, so that there one other aspect of the investigation would kind of kick in.

Mr. Rowe: I think that would be a worthwhile visit. It's been a few years since I've been there, but I found it most educational and informative. I knew then what they were doing. Their procedures may have changed in operation, but I think a visit to that place certainly would be worthwhile.

Mr. Chairman: Quite frankly, I think what we will probably wind up doing this year is, when John does the report we sit down here and have a little briefing session about the agencies that we're going to review. It might make some sense, for example, to conduct a review of the communications authority on their premises to see what they have in operation. I'm sure they would have meeting facilities there.

There would be a little problem with Hansard and what not, but perhaps we could spend part of the day touring and have a half-day hearing. So if we have that much flexibility in identifying the agencies you want to review, then perhaps as part of the report the recommendations could come in saying about two of them might be worth visiting and with the remainder we hold hearings here.

We might have a couple more where it's easy to identify the groups who use the agency, and we would invite them to make a presentation to the committee. If they say no, there's nothing we can do about that, but at least they've had the opportunity to voice an opinion. I'm not suggesting a long set of public hearings, by any means. Is that an agreeable way to proceed?

I recognize that it's not as tight as in previous years. I did feel myself that there are occasions when we were looking at an agency that had an operation and was trying to explain it, and it would have been a great asset if the committee had been able to see the premises and what the people were actually doing.

Are there any additions that members wanted to put on here?

Mr. Ruston: You have another item on our agenda, number five, Mr. Chairman.

Mr. Chairman: Yes. Perhaps we could deal with that now.

Mr. Rowe: Just in answer to that question, I think we should be co-ordinating our efforts again with the agencies review committee.

Mr. Chairman: Yes. I would suggest that we continue as we have in previous years.

Mr. Rowe: To have the same organization come in to both of us, for instance, is, I think, not productive.

Mr. Chairman: Okay. I would undertake, when we finalize the agencies you want to look at, that we will do the matching process that we have done in previous years.

Mr. Rowe: Yes.

Mr. Chairman: If I might introduce the other matter that's on the agenda, there is a thing called the Board of Ophthalmic Dispensers--opticians, makers of eye glasses, regulations of that nature--which has been the subject of at least some concern lately. That is an agency which does not table an annual report. What the committee might like to consider--since one of our recommendations in previous reports was that all agencies table a report of some kind just so there is a mechanism whereby they can come under review--is that you beg leave of the House to include them in your review this year.

It's not suggesting that all of them immediately do an annual report. If it is taken that the preparation of an annual report is too expensive or not a good mechanism, then perhaps a way around that is to simply identify an agency that the committee would like to review and beg leave of the House to include it.

Mr. Rotenberg: Is that one of our agencies, or is that more of a self-regulating type of body?

Mr. Rowe: I see in the list of agencies under Health there is a Board of Ophthalmic Dispensers. Is that the one?

Mr. Chairman: Yes, but they do not table an annual report.

Mr. Rotenberg: Are they really one of ours or are they a self-regulating type of thing?

Mr. Chairman: One of ours. They are appointed by the government.

Mr. Rotenberg: Appointed by government, so they wouldn't come under self-regulation.

Mr. Chairman: No. Are you in agreement that we would seek the consent of the House to do that?

Mr. Rowe: Why would we do that?

Mr. Chairman: Because they don't table--

Mr. Rowe: Just because they don't table an annual report?

Mr. Chairman: That's right.

10:50 a.m.

Mr. Rotenberg: Then you want to go ahead, in effect, and do a number on them?

Mr. Chairman: If I wanted to do a number on them I wouldn't bring them in here. Let me formalize it. The suggestion is, and it is at my instigation, that this one agency be added to our preliminary list of agencies for review this year and that we beg leave of the House to include them on our review list.

Mr. Rotenberg: Until we decide we really want to review them you're going to have a preliminary list. Until we get a final list we shouldn't be going to the House and begging leave. It's the chicken and egg situation. If we finalize our list to include them that's the time to go to the House.

Mr. Chairman: Okay. Are you in agreement that we put them on our preliminary list?

Mr. Ruston: Preliminary list, yes. Then we will review that.

Mr. Chairman: Are there any other agencies that other members would like to have put on the preliminary list?

Mr. Rotenberg: What about the Board of Internal Economy?

Mr. Chairman: We have a suggestion -- facetiously or otherwise?

Mr. Rotenberg: I think we will leave that.

Mr. Chairman: I am prepared to hear that. They are reviewed by no one, I might point out.

Mr. Rotenberg: They are reviewed by a committee of the House, which they are.

Mr. Chairman: Are there any on the list which the members feel are not appropriate agencies for review this year?

Mr. Rotenberg: I am just wondering, as the hydro committee has done so much on energy, should we be bringing back the Ontario Energy Board and the Ontario Energy Corporation? Is that going to get us into deep waters where another committee has really been probing?

Not that I don't think they should be reviewed, I am just wondering has there been enough done on it in another committee? They haven't been directly reviewing them but in a way they have been examining--

Mr. Ruston: Mr. Chairman, I don't know if I have anything to add. I have five marked here. I've got the Ontario Liquor Control Board, Ontario Lottery Corporation, Ontario Labour Relations Board, Ontario Educational Communications Authority, and then we have the ophthalmologists. I don't know how many more we want.

Mr. Rotenberg: I think the Ontario Highway Transport Board is something that should be done by somebody.

Mr. Ruston: I happen to have sat on the committee on public accounts when we had them in for about three weeks. Of course, it's been quite a few years ago.

Mr. Rotenberg: How long has it been?

Mr. Ruston: Oh, it would have to be back in '1974, I guess. We had quite a thorough investigation.

Mr. Chairman: I have had six of the proposed ones mentioned here indicated. The energy board and the energy corporation have not been directly reviewed by any committee of the House although, as you say, there has been a great deal of investigation of matters concerning energy, but the function of these two agencies has not been reviewed.

Mr. Rotenberg: They may be getting at it in other ways, too. I would suggest we leave those. They are rather low priorities as far as I am concerned.

Mr. Ruston: I would sympathize with that, Mr. Chairman. There have already been two committees, the hydro and the Porter committee.

Mr. Chairman: Any additional ones other than the ones that have been suggested?

Mr. Rotenberg: Last year didn't our staff give us a little longer list to select from?

Mr. Chairman: Yes. I want to bring to your attention that you also have in your agenda today correspondence about another agency, the Ontario Board of Censors. There is an additional letter attached to your agenda today about the Ontario board of censors, which might be another agency which the committee would want to review.

I'm sorry I don't know the person who wrote it. I take it it is a constituent of Mrs. Campbell, and that person is certainly indicating that he or she would like

to see the board of censors applying, and they also do not table an annual report.

Mr. Rowe: I think some of these people should see some of the clippings that are supposedly lying on the floor down there and they probably wouldn't be so anxious to dispose with the censor board. I think we should censor about half--

Mr. Ruston: It's a personal matter this person has, and whether we, as a committee, want to investigate the board because of that, I'm not sure they have concern for it. I suppose there are many thousands of people out there who do.

Mr. Chairman: Any further comments?

Mr. Rotenberg: There are a couple of things that I think some day should be reviewed. Not coming from a rural riding, I don't know when the last time was we reviewed some of the farm marketing boards, but that's one, I think, may come up one of these days, if that turns anybody on.

Mr. Chairman: There are 11 agencies--and 12 if you count the censor board--that are on the preliminary list. We are suggesting that a target of, perhaps, six agencies would be appropriate.

Mr. Rotenberg: I know another one that might bear looking at one of these days. When was the last time you looked at the Ontario Arts Council?

Mr. Chairman: Two years ago. In our first year we pretty well covered the waterfront in terms of types of agencies that are out there. So within the last two years most of the classifications of agencies had at least two or three of the agencies before the committee.

Those are the staff recommendations then. I will include the two additional ones so it makes a total of 12.

Mr. Rotenberg: What about the censorship board?

Mr. Chairman: You want to delete the censorship board?

Mr. Rotenberg: I would delete it.

Mr. Chairman: Okay. So there are now 11 agencies. Are there any other comments that you want to make about this?

Mr. Ruston: Investigate the Law Society of Upper Canada. Make them change it to the Law Society of Ontario.

Mr. Chairman: Why would you want to bring that group into this century? They seem to be doing quite well operating three centuries behind the rest of the world.

Mr. Rowe: When I see the bills concerning those six forest rangers--about \$30,000 each.

Mr. Chairman: We were just having a little conflagration here. It would seem to me to be possible to identify the agencies you want reviewed today. If you'd like to, we can do that. The only problem with that is that you don't even have a preliminary report on the agencies in front of you.

Mr. Rotenberg: Without being formal maybe we should just see if we can get a consensus of those who are here.

Mr. Chairman: All right. Let me see if we can have a rough consensus on this. The Ontario development corporations--and there are three of them: the Ontario Development Corporation itself, the Northern Ontario Development Corporation, and the Eastern Ontario Development Corporation. May I have some indication from you, perhaps just a show of hands, of those who would like those three agencies to remain on the list? That solves that one.

The Ontario Energy Board? The Ontario Energy Corporation? Ontario Educational Communications Authority? The Ontario Labour Relations Board? The Ontario Lottery Corporation? The Ontario Liquor Control Board? The Ontario Northland Transportation Commission? The Ophthalmic Dispensers of Ontario?

There was some indication of support that the review should include the communications authority, the labour relations board, the lottery corporation, the liquor control board, Ontario northland and the ophthalmic dispensers. That's six.

Mr. Rotenberg: Did we want the liquor control board? I'm not fussy, but I'm not--

Mr. Ruston: I don't know if it's ever been reviewed.

Mr. Chairman: All right. I'll put it to you this way. Somebody give me a motion to list those six.

Mr. Rowe moves that those six agencies be reviewed by the committee this year.

Any further discussion? Any amendments? Those in favour? Any opposed?

Motion agreed to.

Mr. Charlton: Just before we leave the topic of the list, since we were talking about the possibility of having some presentations where it seemed feasible, other than perhaps just the board or agency involved, in the case of the ophthalmic dispensers board, it would seem useful to me if we contacted the association.

I've had a number of complaints from opticians who are members of the opticians' association--I'm not sure what the formal name is--who have been involved with the board in its former life and have some concerns about the way it is now operating. As they have an association, it would be fairly easy to contact them and have a handful of representatives from the association come when we're doing that.

Mr. Chairman: What I think I would recommend to the committee is that we now ask the staff to prepare an outline of which ones would be logical and sensible to visit, and also ones where it would be logical to extend an invitation to particular groups and try to name the groups. We will conduct visits to particular operations for three of the other hearings.

We will be inviting these specific groups to appear before the committee. We'll be giving them lots of notice. The committee would then approve the exact agenda. Is that an agreeable way to proceed?

Mr. Rotenberg: Shall we invite Alcoholics Anonymous for the LCBO one?

Mr. Chairman: Don't get smart or I'll invite Bill Temple.

Is there a motion to transcribe the hearings?

Motion agreed to.

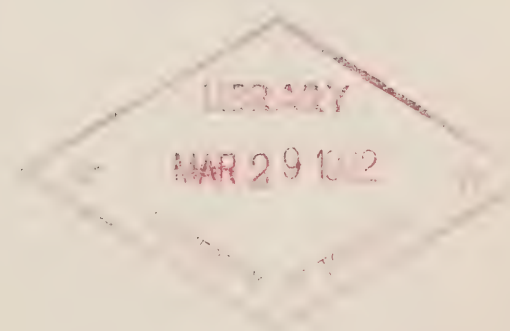
The committee adjourned at 11:02 a.m.

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STANDING COMMITTEE ON PROCEDURAL AFFAIRS

AGENCIES REVIEW COMMITTEE REPORT

THURSDAY, APRIL 3, 1980



MEMBERS OF THE STANDING COMMITTEE ON PROCEDURAL AFFAIRS

CHAIRMAN: Breaugh, M. (Oshawa NDP)

VICE-CHAIRMAN: Davidson, M. (Cambridge NDP)

Charlton, B. (Hamilton Mountain, NDP)

Mancini, R. (Essex South L)

Rotenberg, D. (Wilson Heights PC)

Rowe, R.D. (Northumberland PC)

Ruston, R.F. (Essex North L)

Sterling, N.W. (Carleton-Grenville PC)

Research Officer: Eichmanis, J.

Clerk: White, G.

Assisting the committee:

Pope, Hon. A., Minister Without Portfolio

LEGISLATURE OF ONTARIO

STANDING COMMITTEE ON PROCEDURAL AFFAIRS

THURSDAY, APRIL 3, 1980

The committee met at 10:08 a.m. in room 151.

AGENCIES REVIEW COMMITTEE REPORT

Mr. Chairman: I will call the meeting to order.

We thank you very much for dropping in on us this morning. As you know, we have attempted in previous years to try to co-ordinate the work of the two committees through the cabinet office, and have been relatively successful at that, so that there isn't a great deal of overlap, or two committees of roughly the same nature going over the same ground. So we've been reasonably successful in that. Maybe we could just begin the process this morning by running through these staff questions, and get a response from you on those.

As we said at last week's meeting, we thought this was a good report when we wrote it a year ago, and it looks like a good report when you wrote it too. I think there is a consensus emerging about the kind of things that should be done with these agencies, and the approach that should be taken. It seems a little disjointed in spots, but it is getting there, so most parties are happy.

How about the first one? We had some discussions previously about different techniques that you were using as opposed to our approach to the review of agencies. Maybe if you could just spend a couple of minutes running down the approach that your committee is using in reviewing the agencies.

Hon. Mr. Pope: During the period that the Hon. Douglas Wiseman was chairman of our committee, we would contact the ministers concerned under whose jurisdiction the individual agencies fell. We would discuss the roles and functions of these agencies. The minister would obtain further information from the agencies, and we would obtain further information from the agencies as to the frequency of the meetings, what their original mandate was, and what kind of reports had been filed with the ministers concerned.

10:10 a.m.

Our committee would then analyse whether or not the agency should continue to function, and whether it could be amalgamated with other agencies that were performing similar types of functions in the same

general subject area; or whether or not they should continue to operate.

We got information from the minister, from the agency itself on some occasions, or we would get communication from the agency through the minister. We would also have our own information gathered from statements made by the ministries, of discussions that often took place in estimates, and other general knowledge that we, as members of the Legislative Assembly, had about the role of these agencies.

The first report submitted dealt with certain specific agencies that we felt something could be done with. That was tabled in the Legislature.

Next, we wanted to move to a system of implementing some form of sunset in an organized fashion which would give notice to the agencies. This would be not a paper exercise, but an efficient review. As different agencies come up for sunset consideration, under the terms of the order in council, the individual reviews will be made public.

Mr. Chairman: If I could pursue that, we have a bit of a problem here. We have not been able to come up with an effective means of involving people who use the agencies. We've attempted to advertise without much success. Some people have written us letters; a few have taken the time to speak to a member of the committee. But it has been difficult to establish just exactly how you would get the users of the agency to put forward opinions.

For many of them, particularly with the regulatory agency, there is a built-in apprehension. Someone who, in the foreseeable future, is going to appear before, say, the Liquor Licence Board of Ontario for a liquor licence is unlikely to come before a legislative committee this week and tell us about all the sins and errors of that regulatory agency.

Have you attempted in any way to try to deal with that problem?

Hon. Mr. Pope: Firstly, our efforts have been directed as a priority towards the function and role of advisory agencies. During our consideration of various advisory agencies, we have attempted to communicate with some of the interest groups that were being served by these agencies, and analyse whether or not they felt the agencies were performing efficiently; and, secondly, whether or not there are less-structured alternatives available for communicating.

To say that that consultation took place in an organized fashion, I think would be a little bit of an exaggeration. But as individual members of the

committee, we did make an effort at contact on an informal basis.

Mr. Chairman: I see. So you haven't come up with a good technique either?

Hon. Mr. Pope: No. We're concerned about that aspect of it as well. We hope some of those concerns which are very valid ones are going to be taken into account in the nature of the review that's conducted. I'll miss the advisory agencies that we've listed in our order in council.

Mr. Chairman: How about the role of the Management Board of Cabinet? You are aware, surely, that for some time now the management board has been attempting to grapple with this problem of how many agencies are out there, who they are, what they do, who's cleaning up their act, does anybody really know where they are any more?

What's the relationship between those people in the management board, for example, who put together their reports on the matter and who have attempted for, I guess, about a five- or six-year period now to put some sense into all of these agencies out there? Are you continuing to function with them? Do you use them as the agency to implement your recommendations or what?

Hon. Mr. Pope: Yes. By the way, the gentleman with me is Scott Campbell from management board. Scott and others of management board work with our committee, and have since I first sat on the committee when it was formed by Premier Davis. They gather much of the information for us, and provide us with some of the criteria which they think should be used in analysing the performance of agencies and whether they should continue.

Management board provides all the staff for the production of our reports, and will continue to produce administrative guidelines for the sunset-review process in consultation with our committee.

Mr. Chairman: One of the problems is that although I think it's reasonable to say that this committee, by and large, agrees with the recommendations put forward by management board some years ago, we don't see it happening. Management board made recommendations to cabinet. We've seen from various ministries, recommendations within the ministry. We've read your reports. We've prepared reports of our own.

What seems difficult to figure out though is: Does anything ever happen because of all this paperwork moving around? It strikes me, for example, in your relationship with management board and with the cabinet and as a kind of creature made up by the governing party

of all the groups at work in this field, you should have the most direct ability to monitor whether or not your recommendations are being implemented.

One of the things that concerns us somewhat is that this committee, like several others, made some recommendations about how it should be set up in the first place and some guidelines for things like conflict of interest. We still see, reappearing every now and then when these agencies emerge from behind their rocks, the same problems now that were there five years ago. They were identified at that time by management board, were identified by us, have been identified by you, but nothing happens.

Hon. Mr. Pope: I think there has been some progress. As I mentioned in my statement to the Legislature, management board will be publishing guidelines for the sunset process and will be publishing conflict-of-interest guidelines. Mr. McCague will be making a statement in the Legislature.

There has been progress in the implementation of our first report which, we think, has been significant. That report came out on November 29, 1978. It called for the elimination, merging or modification of 46 different agencies.

I think it's fair to say that the majority of these decisions made at that time have been implemented. There has been a reduction in the number of agencies since that time. We could go through that list and read it into the record if you like. There's a net reduction of 30 agencies referred to in the report. We've dealt with, either by reduction or by amalgamation, 37 different agencies out of the 46 that were recommended.

We're going to continue to try and get a better track record on the remaining eight or nine of them to fully implement the report. It's our expectation that the second report will be implemented in accordance with management board guidelines. It is hoped we'll be able to report to you similar progress.

10:20 a.m.

Mr. Chairman: I think that's a concern to most of the members of the committee; after everybody has written up the reports and the House has debated--or in your case, the cabinet has looked at your recommendations--it is difficult to determine the follow-up.

One of the things that concern some of us is those agencies we have reviewed that don't do anything. So whether or not they continue in existence means, for all intents and purposes, whether or not you are eliminating

an annual dinner somewhere and some report which nobody is going to read anyway.

Let's go on to the next question, which is one that we began with. How many agencies are out there? If you recall, in the first year that the committee went at this the first problem we had was trying to figure out how many of these beasts are in existence. I'm not sure that we have now an accurate record of how many agencies there are. This has to do with whether you define them in groups or individually.

In your report you went at it in a somewhat different fashion, but the problem occurs again. You said in part of the report that there are 270 provincial agencies or groups of agencies, but then you go on to find 602. I think the number we came up with at one time was 782. It's difficult to do a little culling if you're not sure about the size of the herd.

Hon. Mr. Pope: I agree with you. That's one of the problems. Quite frankly, the origin of the problem is trying to analyse the relationship of the particular structure you're dealing with to the government and what constitutes an agency in any sort of understandable definition.

Our numbers were taken from the Premier's office listing of agencies to which the government appoints all or some of the members, so it wouldn't include any bodies to which members are not appointed by the government. The reason for the difference of 270 agencies or groups of agencies, as opposed to 602 separate agencies, relates to 14 groups of agencies. To give you some idea, I can go through them. It will just take a second.

Under Colleges and Universities there are 32 apprenticeship and tradesmen provincial advisory committees. Under colleges of applied arts and technology, boards of governors, there are 22 of them. Under Colleges and Universities, the universities' boards of governors, there are 10.

Under Community and Social Services, there are 10 boards of management for homes for the aged. There are also six district welfare administration boards.

Under Health, there are 21 health councils; 35 regional boards of health and health unit boards; 22 hospital boards to which we appoint members and five review boards for psychiatric facilities.

Under Housing there are 59 local housing authorities. For Intergovernmental Affairs there are 12 boards of trustees for improvement districts. In labour, there are seven industrial standards advisory committees. For Natural Resources, there are 39

conservation authorities. Under the Solicitor General there are 71 regional boards and boards of commissioners of police.

Those are the numbers we used in arriving at 602 separate agencies.

Mr. Chairman: How about this problem? In one of our reports we wrestled with this rather thorny thing. About as fast as anybody can shut them down new ones are created. For example, on the day you tabled this report in the Legislature two other ministers rose and announced new agencies. They're not called "agencies" and they're not, supposedly, long-term things; but faster than a speeding bullet, after one end of the government shuts down a few little agencies over here, another end of the government is busy creating them. Talk about procreation.

We discussed at one stage just calling a halt to the whole process and just saying: "Okay, let's have a moratorium for six months or nine months or a year. Let's get some rules in place." If you do create new agencies from here on, they will have to have a memorandum of agreement so we know what they're doing. This will be the guideline for conflict of interest; this will be the kind of pay they get; this will be the size of the agency, the nature of it. We would discuss things like sunset provisions and so on.

But the fact remains despite everybody's efforts in this regard. Just about as quickly as we shut them down, somebody else cranks up some new ones and changes the name or says it is only temporary. By just sitting down, as you have said, and deciding what constitutes a group or an agency, there will be flocks of them in or flocks of them out.

If we wanted to, with some brilliant editorial work we could probably decide that there really aren't any agencies out there--that none of them is advisory or that some of them are regulatory. If we wanted to define them as only agencies which hold public hearings, you could reduce them in one fell swoop. But it still wouldn't make any difference.

What are we doing to succeed in that regard?

Hon. Mr. Pope: The proliferation of advisory agencies can and should cause some concern. I think the question to which members of this Legislature have to address themselves when legislation comes in is whether or not the right to establish agencies should be one of the matters included in the legislation.

I think we are making progress. Our report indicated that in terms of establishing and administering the agency there would be a tighter

control exercised by Management Board of Cabinet.

In cabinet, since I've been in, we have attempted to insist upon the inclusion of sunset provisions in all the agencies. We have tried to put at least some time limitation on their activities. Under the legislation and at the insistence of many ministers the advisory agencies do perform a function with respect to certain issues on which the minister feels he needs public input. That's the reason for these agencies.

All I can say is we are conscious of the problems of trying to stand in the middle of the stream and make a bona fide attempt at control. We are making a real attempt to reduce the number of advisory agencies by amalgamation or straight elimination and introducing some alternative forms of consultation.

Mr. Chairman: That kind of leads into the next question here.

Mr. Rotenberg: Before you leave that question: You're putting a lot of stress on the number of agencies. I don't know if the number is really the essential problem. If agencies are out there doing the job they're supposed to do and their work can be justified, I don't care how many agencies we've got. The problem is to identify them to ascertain whether or not they are still needed. They may have been needed when they were set up. The minister says to eliminate or amalgamate those which are no longer necessary.

There is another side of that coin. Members of the Legislature from all sides of the House constantly stand up and ask for more programs and more things to be done. There is more legislation requested from all sides of the House, which sooner or later is going to require somebody to administer it. Therefore, we're going to require more agencies.

We as members of the House can't have it both ways. We can't keep asking for more things to be done and then say we don't want any more agencies. With respect, Mr. Chairman, we shouldn't be patting ourselves on the back and saying we've reduced the number of agencies. We may be doing something that isn't all that productive. The name of the game isn't just to reduce the number. We may, in our zeal to reduce them, cut out some valuable programs.

I think the name of the game is to ascertain those which are doing a good job and make sure we have a handle on them. Then we should find out which aren't doing such a good job and, as the minister says, phase them out or do something with them. That's really what we should be concentrating on instead of playing the numbers game.

Mr. Chairman: What about the next one? Part of the difficulty I think many people have with your work is that it is a committee of the government. It does not hold its meetings or its reviews in public. You made mention again that when a new agency is established they're going to have to meet some published guidelines. When does the world get to see those guidelines?

Hon. Mr. Pope: By the end of April.

Mr. Chairman: The next one is picking up on what appears to be a bit of redundancy in one of your recommendations. The first part states that cabinet approval must be sought before the agency form is used. Then the second part states that cabinet decisions are required to determine whether a new agency should be established. Are there two levels or two different decision-making processes involved here? How does that function?

Hon. Mr. Pope: We were trying to address ourselves to two separate questions. The first is whether or not we should go with the agency format at all, or should look at some other consultation processes to see if there is another way to perform the function or gather the information for which the minister wishes to use the agency. We think that consideration has to be made first by cabinet.

10:30 a.m.

Having decided that some sort of agency format is needed, we think perhaps we should be looking at whether or not one can adapt an existing agency, or whether that function or that information gathering program can be added to an existing agency and accomplish the same purpose.

Those are the kinds of things we think should be considering before you jump in and issue an order in council establishing a new agency. We think it would be more cost-efficient and produce the same result in the end.

Mr. Chairman: In part of your recommendations, you discuss the matter of somehow putting into the legislation of the order in council precisely what this agency might do. I guess this in part is looking at the roles of the two committees that are in function here.

To oversimplify, some of us might opt for the notion that your agency, because it functions within the government, has a primary responsibility to nail these people before they set up shop. After the agency has been created and all the guidelines are in place, a review by a legislative committee such as this one would then kick in to see whether or not it performs a useful function.

There is a kind of management role, initially, in setting up the agency within the government, and once it has been put in place, some other group like this committee or some other committee of the Legislature would then go to work on whether or not it's succeeding at what it's supposed to be doing. Is that the kind of thing you're thinking about?

Hon. Mr. Pope: That's a possibility that the committee could consider. Really, I think that decision would have to be made by the Legislature, with the guidelines, the terms of reference and the order in council being made public. In the existing legislative process there is some flexibility, I think, for questioning the terms of reference or these procedures in the House and/or in committee through a number of committee forms, really. That is some function the committee could legitimately suggest to the Legislature.

Mr. Chairman: What about the recommendations in here? Like this committee you seem interested in the concept of sunset provisions. There is some degree of difficulty in establishing just exactly how you should go about this, whether or not the House itself ought to be looking at how those sunset provisions are set up and how you do it.

One of the things that concerns me a bit is following the example of the American states that have gone with a great deal of ballyhoo to a sunset law. It now is becoming apparent that the sunset provision is creating more agencies than it is doing away with; that perpetuation of an agency means it stops regulating or advising and starts preparing the case for why it should be allowed to continue to live. The states which have adopted sunset laws have not really come up with great track records of being effective at eliminating useless agencies.

It seems, almost, that no matter what you do they've got an ability to survive and to justify their existence. It seems all those states have succeeded in doing if those agencies did have any valid purpose in advising or regulating, is to stop them doing that for the time period in which they talk about their own survival. How do we grapple with this thing?

Hon. Mr. Pope: I think you've hit upon a problem that has been experienced in other jurisdictions. We feel that by establishing a set of review criteria and by our involvement as a committee in the establishment and development of those criteria and in the administration of the sunset process, we will be able to avoid some of those problems.

We do have information now on frequency of

meetings and reports and this kind of thing to indicate the prior activity of a lot of these agencies. We're conscious that could be a result of sunset. It doesn't necessarily have to be, and we're hopeful that it will not be.

We are going to try to have a sunset process that will involve the least amount of paperwork possible. All I can assure you is that is one of the reasons I indicated in my statement we would continue to be involved in the process. All the members of the committee were very concerned that we would just be involved in a one-year justification cycle and a real proliferation of paper. We wanted to avoid that and just to analyse performance.

Mr. Chairman: Part of the tangle in here is that, for example, you looked at advisory agencies. Why didn't you look at regulatory agencies? The definition can make a tremendous difference in what you're looking at. If you define agencies as being advisory in nature, then there are another 845 or whatever out there creeping around regulating somebody. If they don't table an annual report they don't come within our jurisdiction. If they don't tell you when they're meeting you won't find out about it either.

Why is it, for example, only 90 agencies are asked to prepare a memorandum of understanding? If that's a reasonable concept, and we thought it was, why doesn't everybody have one? It really doesn't have to be a big deal, but it's one more little kick in there which allows you to find out who they are and what they're supposed to be doing.

Hon. Mr. Pope: Firstly, our report dealt with all agencies in terms of establishing and administering the agency. We felt it was time for some change in the current practices and that we could develop an efficient system which would control the establishment of the agencies and their administration afterwards.

On the question of reviewing the agencies, quite frankly, we made a decision as to the areas in which we felt there could be the most progress made in terms of the proliferation of agencies and their roles vis-a-vis the minister. Quite frankly, it just established a priority for our committee.

Mr. Chairman: We have three questions in a row here which deal with mechanics. Would you send to us the set of policies and procedures which will be published in the manual of administration? Is that a reasonable thing to ask for?

Hon. Mr. Pope: That will be provided at the end of April.

Mr. Chairman: Will the procedures and guidelines with respect to the sunseting of advisory agencies be made public?

Hon. Mr. Pope: Yes, but not by the end of April.

Mr. Chairman: Will that come later?

Hon. Mr. Pope: Yes.

Mr. Chairman: Do you have any idea of a time frame?

Hon. Mr. Pope: We are working on it. I'd better be careful and say, I hope by the end of the year.

Mr. Chairman: You have a monitoring process described on page 14 of your report. Would you like to elaborate on that for us?

10:40 a.m.

Hon. Mr. Pope: As I indicated in response to some earlier questions, our concern is that the sunset process doesn't degenerate into an exercise in paper generation and a lot of elaborate justifications.

First of all, we want to monitor the program to ensure the deadlines established in the order in council are adhered to, for every agency. If they are not, we want to make sure that orders in council are in place to terminate those particular agencies and they not allowed to drift on. Then we want to monitor the preparation and the use of administrative guidelines in the sunset process. We want to monitor the utilization of the guidelines for the establishment and administration of the agencies as an on-going process to make sure it's on stream.

That monitoring process will, quite frankly, be that the members of the committee will meet from time to time and, with two of us being in cabinet, we'll be able to bring forward these concerns as cabinet deals with these agencies on a day-to-day basis.

Mr. Chairman: You're not considering a sort of CIA operation where you're going to bug the telephones and hotel suites of various regulatory agencies?

Hon. Mr. Pope: That would create some problems with some of my other functions.

Mr. Chairman: What relationship do you see between your committee and this one?

Hon. Mr. Pope: I think it's appropriate that I appear before you and keep you informed and listen to your suggestions on how we can deal with agencies of the government. We've been trying to monitor your own

progress by your reports and management board has been trying to respond to them. I think you can see some of the threads of your earlier discussions in some of the work we're trying to do.

I think it's really a question of being able to keep in touch and advise each other what we are about and what we are trying to do. I think it's appropriate for this committee to review the performance of some of the functioning agencies the way you are doing. I particularly agree with the recommendation on page 24 of your report; that's the food terminal.

I see us as being able to work somewhat in tandem; you as a legislative committee looking at the agencies established under legislation and ourselves as trying to examine some of the agencies from a performance point of view in the cabinet setting. I think the two of us can do a good job together on really developing a more effective system for the establishment, administration and termination of agencies. I think it's something, quite frankly, you have to continue to pay attention to in the whole process. That's why your committee is important

Mr. Chairman: One of the things that bothers several people who are on this committee--and, I imagine, on yours--is that there's a great deal of slippage in this approach. We sit down, bring an agency in here, have a little chat with them, read some of their research and ask some questions. Six or eight weeks later we write up a report and table it in the House. It sits there for six or eight months. The House has a debate about it and passes a report--all very wonderful stuff. If you were trying to fire a pistol using the same technique, you'd never get it off.

The same goes for your work as well. You've tabled a couple of very nifty little reports in the House, but there's no cause and effect at work here. I suppose, to carry it to its extreme, one could make an argument that if these two august committees prepare these wonderful reports, table them in the House, the Legislature of Ontario sets aside two and a half full hours to debate these things and then goes even further and has a vote, that something ought to happen. But, nothing really does happen.

Do we want to get this process to the state where if your agency at the beginning of the process, or ours at the end of the process, says, "This agency which appeared before us is no longer serving a useful function," we have a vote on it? Then we kick it upstairs and have a vote on it. You will take it to the cabinet and they will have a vote on it. But when we do all of this, that agency is terminated, out of business.

We do not see that direct relationship developing. There are lots of threats here.

For example, you made some recommendations in your last report about the development corporations and that certain things should occur. The minister responsible for them said, "Wait a minute. That's my turf there," and they didn't occur.

How do we sharpen that part of the process? So that when you, as a committee, or we, as a committee, or the Legislature says, "This one really ought to be terminated," that that actually occurs, because there is slippage in the system here.

Hon. Mr. Pope: I think the important thing is that your considerations, your deliberations and your recommendations do trigger an executive review. You've noted in your second report that there has been a response to many of the points which your committee has been raising and you were generally satisfied with it.

We have tried to implement as best we can the recommendations of the first report of our own committee, under the chairmanship of the Hon. Douglas Wiseman, with some degree of success. Certainly there are many debates about all of those recommendations. We feel we have at least, through the issuing of these reports, put the various ministers, who have executive responsibility for these agencies under legislation or under their general duties as assigned to them by the Premier, on notice that there is some questioning and we've forced them to justify their responses or their positions on our recommendations.

We do attempt to follow up, on a regular basis. We try to initiate some continued progress in implementing your recommendations and ours. Granted there hasn't been 100 per cent success--I think that's fair to say--but I think the number of agencies that have been dealt with in a way that I feel would be satisfactory to this committee, represents the vast majority that we've dealt with. I do think that at least it evokes some response and reaction in the Legislature, which is important.

Mr. Chairman: In your report you indicate that ministries will only need to provide estimates for agencies in briefing books rather than in the main estimates, as we recommended in two of our reports. What was the reason for that distinction?

Hon. Mr. Pope: This discussion took place some time ago, but our understanding of the estimate books was that it was an outline of the programs of the ministries and not necessarily a structural organization of the ministry; and that was the reason they shouldn't necessarily be included.

Mr. Chairman: You feel that would then give a committee sufficient scope and a propriety to discuss during the course of the estimates the work of an advisory or regulatory agency?

Hon. Mr. Pope: They are contained in briefing books, of course. But I've never found--and I haven't been here very long--estimates committees to be limited too much in their discussion of ministry estimates. I seem to recall a few wild evenings.

Mr. Chairman: That's true. I think what we were attempting to get at was that it is a difficult problem for members of the House to know who these agencies are, where they are and what they are doing.

10:50 a.m.

If they don't table an annual report, for example, there's some discussion as to whether or not they come under the purview of this committee. If they're put into a briefing book, the critics will get those, but none of the other members will get them. So there is a tendency not to know that the agency is in place or what it's doing.

We were simply trying to provide a mechanism that would at least point out that, attached to this ministry somewhere, there's a little advisory group or regulatory agency; that there's a group of people working away out there, and they should not be forgotten in the process. We were recommending what we thought was a device which would ensure they would not be forgotten.

Hon. Mr. Pope: As I mentioned, the briefing books do contain some of this information. But you're right. We do have a compendium of agencies which Mr. Renwick requested of my office some time ago and which we forwarded to him. At that time we were in the process of trying to update them because we were going through our own review processes.

The number of agencies, the names of the agencies, and the personnel involved in their administration are available. I think it is something that the members attending in estimates committees can develop in terms of their own questioning, trying to elaborate upon the present roles and functions of these agencies, as well as determining whether or not their statutory roles are being fulfilled.

Mr. Chairman: One problem we ran into in the beginning of the process is that the rules look fairly clear. For example, there are a large number of agencies which, by statute, are to table an annual report. We then asked the logical question, "Where are the annual reports?" We found that a number of them, even though there is a legal requirement to table an annual report,

just didn't do it; it just never happened. That phenomenon exists.

For example, I was interested to note that the Ministry of Industry and Tourism supposedly tables, by law, an annual report in this Legislature, but hasn't done so since 1977. There is that interesting little problem out there. We do not take quite so benevolent an approach to those people out there who, by law, are supposed to have a driver's licence.

If a cop stops you at the roadside and you say, "I just didn't get around to it this year. I'm sorry, officer, I forgot," we tend to get a little nasty with those folks. With various ministries, agencies, regulatory bodies--maybe they don't get stopped by cops for not tabling their annual report, I don't know. But at any rate the problem seems to persist.

Hon. Mr. Pope: Yes. It is a problem. You're right. There has been some slippage. We're hoping we are going to improve that situation through our administrative guidelines for agencies which are going to be announced. Sometimes some of these agencies' reports are included in ministries' annual reports, but, yes, there has been some slippage and it's something we're concerned about. We think some action has to be taken.

Mr. Chairman: Is it your opinion that a committee of the House should review the agency before it's established? Or do you see that as being within the purview of the governing party? For example, if one of the ministries decides that tomorrow it just has to have a new advisory agency and they crank it all up and float it through, should there be a requirement that the House says, "Okay, the Minister of Health or the Minister of Housing has every right in the world to set up a new task force on this or a new advisory agency on that, or we really have to have another regulatory agency in place." He comes into the House and says, "I recommend to this House that we crank up a new advisory committee on whatever." That is whipped off to procedural affairs. We take a look at it and say, "That makes great sense." Or are you of the view that that's the right of a government to establish whatever it sees fit?

Hon. Mr. Pope: I think there is some difficulty in that issue. If the minister has been given the right, by legislation, to establish agencies or advisory bodies--a general right--I think it would be perceived that he's just exercising the statutory right given to him.

There have been occasions where in consideration of legislation there has been detailed consideration by various committees of this House as to the form and function of agencies which would be established. I can think of the residential tenancies bill where there was quite prolonged discussion about the form of the agency

and what its role would be, and prolonged discussion about what was proposed to be a regulation but which ended up being the schedule to a bill, if I recall the final resolution of it correctly.

It's hard to give you a definitive answer one way or the other. In some instances, the legislative committees have already assumed some of that role in new legislation that has been sent to the committees and in part, through a number of processes in the Legislature, you are reviewing, virtually at the time of establishment, the nature of these committees and what function they're performing.

To make a hard and fast statement that every agency should be referred to a legislative committee before its establishment I think would create a conflict with the executive function that many ministers consider they have.

Mr. Chairman: Could I just get one final question in before you leave us this morning?

There has been considerable chatter in a number of fields about a thing called "deregulation." Members have expressed different points of view on it, obviously. One way to go would be to establish that as a concept we all ought to adhere to. It would certainly get rid of a fair pile of agencies out there. Is that being contemplated by your committee as a recommendation? Have you looked at that?

Hon. Mr. Pope: We've looked at various alternatives and we are continuing to look at them. In the regulatory process itself--and even the Economic Council of Canada concluded this in their report on regulatory reform--it's pretty hard to make a generalized rule. There are a number of ways in which a regulatory process works, a lot of times, quite frankly, it involves consultation with members of this House on individual riding matters.

In addition, there are a number of ways in which the standing committee on regulations and other statutory instruments reviews it, just vis-a-vis the Regulations Act though. I know that, having been on that committee for a couple of sessions. On specific issues involving legislation referred to committees, I've been in on committees where there has been some substantive discussion on regulations and consultation. Whether that should be more formalized or whether there should be clearer guidelines on that process is something we've been thinking about. We really haven't come to any conclusions yet.

Mr. Chairman: The minister indicated earlier that he would have to leave just about now. Are there any

other questions that members of the committee would like to whip in before he takes off?

We want to thank you, Mr. Minister, for taking the time to come and sit in with the committee this morning. We wish you well with your work and we will follow it with great interest. We have some argument about specifics that have occurred but, in general, we're reasonably satisfied that what appears to us to be a rather substantial problem has at least been identified. We do see some movement, albeit slow, and we would like to see, I guess, a little sharpening of the process. That would be the nicest way to put it.

Thank you for attending, and we will continue to keep an eyeball on what you're up to.

Hon. Mr. Pope: Thank you, Mr. Chairman.

The committee adjourned at 11 a.m.

Lacking P-3, 1980

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STANDING COMMITTEE ON PROCEDURAL AFFAIRS

REPORT ON WITNESSES

THURSDAY, APRIL 17, 1980

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STANDING COMMITTEE ON PROCEDURAL AFFAIRS

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Charlton, B. (Hamilton Mountain, NDP)

Mancini, R. (Essex South L)

Rotenberg, D. (Wilson Heights PC)

Rowe, R.D. (Northumberland PC)

Ruston, R.F. (Essex North L)

Sterling, N.W. (Carleton-Grenville PC)

Research Officer: Eichmanis, J.

Clerk: White, G.

LEGISLATURE OF ONTARIO

STANDING COMMITTEE ON PROCEDURAL AFFAIRS

THURSDAY, APRIL 17, 1980

The committee met at 10:12 a.m. in room 151.

WITNESSES FOR ABC REVIEW
DRAFT REPORT ON WITNESSES

Mr. Chairman: I guess we have close enough to a quorum.

The first order of business is deciding who we will have before the committee for our ABC review in the fall.

One of the concepts we decided to try was to see if we could get another perspective on the agency. Staff has drawn up a list of what would seem to be those who would have an interest in the functioning of a particular agency. I would like the committee to simply take a look at that and give us any comments you have as to whether you think that a group would be appropriate or not appropriate, or if you have additional people or groups that perhaps might be contacted.

I would repeat that the idea is we would write a letter to these groups informing them that the agency is coming up for review and asking if they would be interested in participating. Then we would try to sort out groups which wanted to simply make a written comment and send us a letter on it, as opposed to others who might wish to appear before the committee.

I am a little reluctant to pursue that with much vigour on the basis that if we appear too aggressive about it, then they might feel obligated to appear before the committee when they have no real interest in doing that, so perhaps you could just take a look over that list.

With the Board of Ophthalmic Dispensers of Ontario, there is really only one that we came up with: the Ontario Association of Optometrists, the functioning agency which that board regulates.

The Ontario Labour Relations Board is somewhat easier. You can come up with a number of names. There are four that are here. I would think that the first two in particular would give us one from each camp, so to speak. There are two others that are mentioned there. Do you have any comments about that?

Mr. Rotenberg: There is one group I get letters from and I am sure you do, which is the Christian Labour Association of Canada, who keep protesting about the unfair treatment they get.

Mr. M. Davidson: CLAC.

Mr. Rotenberg: They may want to put their point of view. My personal feeling is that they have somewhat of a valid point of view. Whether it comes under the Ontario Labour Relations Board, I do not know. Perhaps they are the type of group that should be coming because while they are a labour union they are not in the Canadian Labour Congress and they may have another point of view.

Mr. Chairman: I would think the difficulty with the labour relations board is that you either go to one representative group or you are into a rather large number. For example, each of the affiliated or nonaffiliated locals in this community might want to appear; their international reps might want to appear; their national reps might want to appear. There are a number of labour groups like the CLAC, some of which are affiliated, some of which are not affiliated.

Mr. Rotenberg: The point is, Mr. Chairman, the Ontario Federation of Labour represents, I guess, the bulk of the labour unions, but I would suggest that OFL does not speak for all the labour unions.

Mr. Chairman: No, it does not.

Mr. Rotenberg: If we have OFL, I would hope they could speak for everyone who is affiliated with OFL. But I think there should be some opening for those who are not affiliated with OFL--and I hope we do not get too many--who might also have a different point of view.

Mr. Chairman: The only difficulty that I would put to you on that is that it is generally perceived, I think, and accepted rightfully that when you want to speak to organized labour you would go to the OFL. If you want to expand that, that is fine. But then I would put the caution to you that there are a number of groups other than the CLAC. If you choose to do that, then that means you invite the rest of them. I cannot think of them all off-hand; I believe there are four or five of them. But it would be important if you went past the federation of labour per se that you made sure that you at least contacted all of these other groups and invited them to come.

Mr. Rotenberg: Those who are not affiliated with OFL.

Maybe our staff could have a look and see if there is not too many of them. I just have a little hesitancy of inviting OFL and saying, "We have heard from labour," when there are other people out there who are not represented by OFL and who may feel that their point of view has not been put forward, or maybe a view has been put forward contrary to their point of view.

Mr. Chairman: What about the two associations which are named at the end of that section, the Toronto

Construction Association and the Ontario General Contractors Association? Do you feel that when we call in, for example the Canadian Manufacturers Association, it roughly represents that camp?

Mr. Rotenberg: Again, I would think you have covered most of the major employers of union people, but are there any other major associations besides the CMA and the TCA which might represent a significant group of employers?

Mr. Chairman: My only concern with this is that we have not set aside a long period of time for these hearings, and if you expand the list you are immediately into the potential for a very long set of hearings.

For example, there are teachers' federations and associations not part of the Ontario Federation of Labour and not normally covered under this, but sometimes they are. There are all kinds of associations covered by the Ontario Labour Relations Board which are not part of the Ontario Federation of Labour. There are all of the Simpson's employees, all of the Eaton's employees, the Bay's employees. You can run through the list and find large groups of people who are covered by the workings of this board but who are not in organized labour.

Once you break away from the initial plan of one point of view from management and one from organized labour and decide to go into that, then I would think there is a responsibility to at least invite every other group to make a submission. That would be a large number.

Mr. Rowe: As I gather, the purpose of the meeting is to study the Ontario Labour Relations Board and you want to talk to some of its customers or clients or people who deal with them or who are affected by them.

Mr. Chairman: Yes, that is right. The original idea was to find agencies or groups which deal regularly with that board.

Mr. Rowe: What about the board itself? Has it been before this committee?

Mr. Chairman: No.

Mr. Rowe: You would have them at some point too.

Mr. Chairman: Yes, obviously they would come.

Mr. Rowe: These other names are in addition to the board itself. They are the people who have to deal with and who are affected by the board.

Mr. Chairman: Yes.

Mr. Rowe: I do not know the scope of the unions--

Mr. Chairman: I could take a look at it and give you some indication of what it would be. My cause for concern is why would you invite the Toronto Construction Association and not construction associations from other parts of the province? You would be asking for the opinion of one group in Metropolitan Toronto--and it would be easy for them to come--but what about construction associations in other areas?

Mr. Rotenberg: If there is an Ontario construction association, that is the one we should be inviting, not the Toronto Construction Association.

Mr. Mancini: There is a Building Trades Council.

Mr. Chairman: It is in the OFL.

Mr. Rotenberg: The reason I mentioned the Christian Labour Association of Canada, and I think we should have a look at it, is because it specifically has been making representations to us about some unhappiness with the situation.

You mentioned the department store employees, but I do not know if they are particularly unhappy with the situation. I would hate to spend three days hearing all kinds of people with complaints. I agree with you that we should not go that far. But we know there is one group out there which is unhappy and part of its unhappiness, I think, may be with the way the labour relations board works. That is why I mentioned that group specifically.

Maybe we can do some research. Maybe we could make informal phone calls to certain groups asking if they are happy with the OFL representing them even if they are not affiliated with it. Maybe we can narrow this down.

Mr. Chairman: Okay. The only caution I would put to you is that we do not have the power to call, nor are we calling in here either the Canadian Manufacturers Association or the federation of labour. We are dealing with the regulatory agency, the labour relations board, and we should be careful to make that distinction. If you want to hear a list of complaints about the Canadian Manufacturers Association, I could certainly generate a substantial number.

As a matter of fact, if you want to hear complaints about the federation of labour, I can give you a pretty substantial list for that too. I think we have to move with some care.

Mr. Rotenberg: The other caution, when we are calling in witnesses, other than the OFA, other labour relations board people, is that it is a very narrow situation. We are just looking at the running of the labour relations board but there are all sorts of other

things people might want to tell the Legislature which are not on the agenda.

When a group gets before a legislative committee, it is not too worried about the jurisdiction. It gives its whole litany of complaints. We saw that happen during the committee hearings dealing with Bill 19 on the amalgamation of the Ministries of Education and Colleges and Universities. People came in and told us everything from A to Z, and it had nothing to do with the bill. Those were hearings that lasted for eight months; they should have taken eight minutes. I think we should be a little cautious about what we tell the people who are coming in are our terms of reference.

Mr. M. Davidson: I have no objection to the Christian labour association coming before this committee if the committee feels that would be helpful to it in its review. Most of the complaints it is sending to us though do not deal with the Ontario Labour Relations Board. Most of them are about contractual relationships between an employer and a representative of employees. They write certain things into the contract and this is why the Christian Labour Association of Canada is having difficulties. It has nothing at all to do with the board itself.

10:20 a.m.

Mr. Rotenberg: One of the questions CLAC may have raised--and I use the word "may" advisedly--is whether or not the labour relations board should be looking into some of these contractual arrangements and whether it is fair or not to all the people concerned. That seems to be one of its complaints, that it is not being dealt with fairly, either through the labour relations board or by legislation or something. I am not too sure if they have a valid complaint, but I think it is at least worth investigating.

Mr. Chairman: I assume then that the committee feels the first two groups are worth contacting and that you would like to see lists of other people who might fall into that category. Is that correct? Then we will make up that list and present it to you.

Mr. Rotenberg: On the management side, I think they should be the broadest umbrella organizations we can find, to keep it down.

Mr. Chairman: It is my opinion that should apply to both sides so that we do not get into a full set of hearings on labour laws in Ontario, or we will be here for the next 20 years.

The next agency is the Liquor Control Board of Ontario. There are three groups identified there. It strikes me that is a reasonable cross-section, unless you choose to get into those people who produce or who import and market alcoholic beverages.

Mr. Rotenberg: There are two wine groups and no liquor groups. I do not know if that is deliberate.

Mr. Chairman: The only difference is that there are two associations at work there and the remainder of them--it is much like the previous discussion. If you choose, for example, to invite one of the major distillers I do not see how you can do that without inviting all the other distillers.

Mr. Rotenberg: Do they have no trade association?

Mr. Chairman: I do not believe so.

Mr. Ruston: What about hotel associations?

Mr. Rotenberg: But they are more under the Liquor Licence Board of Ontario than the liquor control board, aren't they?

Mr. Chairman: There are certainly other groups one could invite if one wanted to make a long list, but when I offered directions to the staff I told them we did not want a long list; we wanted a short list that was representative.

Again, if you want to open it up and have a full set of hearings on the liquor laws in Ontario, I would remind you that you are going to have a very, very crowded committee room, and that is not our function. There will be no time for tours, I'll tell you that.

Mr. Rotenberg: Which distilleries are we visiting?

Mr. Chairman: The chair will take that under consideration.

Mr. Rotenberg: While we are making the list, we may as well go to Scotland and visit a couple of places there, shouldn't we?

Clerk of the Committee: Note that this is a spirited discussion.

An hon. member: We shall take the clerk with us.

Mr. Chairman: The next one is the Ontario Lottery Corporation. There was only one group that could be identified there, the Retail Council of Canada. I would like to make a presentation on that one.

Mr. Rowe: What is the connection with the Retail Council of Canada?

Mr. Chairman: They sell the lottery tickets.

Mr. Rowe: Their members do.

Mr. Chairman: The members of this retail council, yes.

Next is the Ontario Educational Communications Authority. Here is an occasion, once again, where you really get into an expanded list. I guess basically what the staff tried to do was take the other communications outlets, particularly the television media outlets, in this community, and invite them to see if they would do it. For example, there are six groups that have been identified here. It is my opinion that you would probably simply write them a letter and wait to see how many of them wish to respond.

Mr. Rotenberg: Why don't we invite the other TV networks?

Mr. Chairman: They are also into similar kinds of programming and there is some overlapping in the area. It is your choice.

Mr. Rotenberg: If the thought is that we might find too much overlapping and everybody else is doing the job, we might end up with a recommendation to abolish OECA, and I think then we would be on the right track.

Mr. Chairman: That could happen.

The Ontario Northland Transportation Commission is another example of the same kind of problem. You can go to a group like the Federation of Northern Ontario Municipalities, and then you get into the question of which of the municipalities to invite. Then you go to the individual municipalities and there are four of them here.

There is one error at the bottom of the page. The gentleman is no longer employed in that position.

Mr. Rotenberg: He took a demotion.

If we got the Federation of Northern Ontario Municipalities, various mayors would or would not be part of that deputation.

Why would we invite individual mayors? I would be more interested in getting something like a northern chamber of commerce or that sort of thing, some kind of amalgamation of chambers of commerce from northern Ontario. I think they might be the type of people we could ask, if there is an umbrella association of that kind up there.

Mr. Chairman: I think the basic premise was that first you try to get an umbrella organization; then after that you try to get someone who would represent the communities who are using the Ontario Northland Railway. I am not sure there is a great distinction there. We could invite, is it Mr. Deibel from North Bay, who has a proposition which is somewhat related to this?

Mr. Rotenberg: Is there a federation of chambers of commerce or something like that--

Mr. Chairman: I don't believe so.

Mr. Rotenberg: --or boards of trade? There must be.

Mr. Chairman: To my knowledge, there is not that kind of thing. There would be regions, for example, for the chambers of commerce, or things like that.

Mr. Rotenberg: Would there be a northern Ontario region?

Mr. Chairman: Yes, there would be.

Mr. Rotenberg: Well, if the northern Ontario region were interested in sending just one representative, that is the kind of thing I am looking for.

Mr. Chairman: That is the preliminary list the staff came up with. We would appreciate any suggestions members of the committee may make.

What we will do with this is leave it for a week or so. If you have a recommendation or a group that should be contacted, let us know, and we will put them on the list. Then we will present you with a finalized list and start to mail them letters. Do you agree?

Mr. Rotenberg: We are planning these hearings basically for August, are we?

Mr. Chairman: These hearings would most likely be in September. We have to wait for the Speaker's panel to allocate the times, but that is normally when we would do it.

The next item of business is going to be a lengthy one; that is the draft report on witnesses. There are some additional considerations. Perhaps first we could go through the draft report and finalize it. Does everyone have a copy of it?

Mr. Rotenberg: Is this the old one, or are you planning to make some changes?

Mr. Chairman: This is essentially the same one.

Mr. Rotenberg: Did we not indicate at the last meeting that we were going to make a few changes in this?

Mr. Chairman: I am going to go through it now to see if the members of the committee have any suggestions to make.

Mr. Rotenberg: I see. I thought the staff was going to make them.

Mr. Chairman: If I might take the liberty, the staff has pointed out areas where there is an expression of opinion. Perhaps I can go through those areas, and then listen to any comments individual members might have.

On the first page, I think the first area where you might question the opinion expressed is where it says: "The committee is firmly of the view that the current situation is not at all satisfactory...more revisions to the standing orders are called for. The Legislative Assembly Act will likely require amendment." That would be after the Ontario Law Reform Commission had dealt with it and we had dealt with it again.

Are there any objections to that?

Mr. Rotenberg: I wonder if we are being a little too strong. Maybe we should not have the word "firmly" in there. We all feel there have to be changes, but I wonder if we are being a little strong before we get a report from the commission. Perhaps we could take out the word "firmly" and just have it say that "the committee is of the view..." I just wonder if "firmly" is a little too strong at this stage of the proceedings.

Mr. Ruston: We have not had significant problems, and yet we are concerned.

Mr. Chairman: Do you want to strike the word "firmly"?

Agreed.

Mr. Chairman: On the second page, middle paragraph: "In consequence, the committee's principal recommendation is that the House resolve to request that the Attorney General direct the Ontario Law Reform Commission to conduct a thorough review of the subject of witnesses before legislative committees. The committee is not aware of any authoritative statement on this matter by any Canadian legislature or judicial body, but does feel strongly the need for such a pronouncement. The expertise and independence which are the commission's hallmarks make it ideally suited to offer a review of this kind. Any proposals the commission might put forward would of course be in a purely advisory capacity; the Legislature would have to judge them for itself and would retain all responsibility for implementing any changes."

10:30 a.m..

In a discussion of the current situation, which is discussed on a page two, there is a comment expressed that "the situation is haphazard and harbours great potential for trouble." I think that goes back to Mr. Rotenberg's point that there have not been a great many problems so far, but if that should occur it would be a substantial problem.

Mr. Rotenberg: I think "haphazard" is not a good word. Maybe "unclear" would be a softer word.

Mr. Chairman: All right. We will find another word.

Mr. Rotenberg: I also do not like the phrase "harbours great potential for trouble." Perhaps we could say "the situation is unclear, which leaves the possibility of abuse," or that sort of thing. I just think that "harbours great potential for trouble" is too strong.

Mr. Chairman: Do you want to strike this sentence? Are we agreed that we will strike this sentence?

Agreed.

Mr. Chairman: I will leave you to look at the next two pages, entitled "Basic Principles," on fairness, clarity and the uniqueness of committees. On the following pages, under "Privileges of Witnesses," in the second paragraph the wording is: "The implication of the view is that witnesses may not be protected by privilege. The committee does not accept this position, but it does think it would be sensible to remove all possible doubt." In other words, it should be clarified whether they do or do not have privilege.

Mr. Rotenberg: Does the committee not accept the position? I am not sure whether witnesses have privilege or not when they come before us.

Mr. Chairman: The two normal places where this committee would look for clarification on that are the Clerk of the House and legislative counsel, who hold contrary views.

Mr. Rotenberg: But it says: "The implication of the view is that witnesses may not be protected by privilege. The committee does not accept this position."

Mr. Chairman: We have had two opinions expressed to the committee saying that opinion is wrong, so I would not accept it.

Mr. Rotenberg: You mean the point of view we have is that all witnesses do have privilege.

Mr. Chairman: Yes.

Mr. Rotenberg: There is also an implication here that the committee is saying witnesses should have privilege.

Mr. Chairman: No, the implication--well, it is more than an implication. We have had a report to this committee from the Clerk of the House, who would be one

logical person to turn to for information, and from legislative counsel, who advises the committees on what the laws really are, which is contrary to the first opinion; in other words, saying that witnesses appearing before committees here have privileges as the members do.

If I can just follow through, on page three it says: "It is the committee's view that nothing would be lost and much gained by codifying the privileges of committee witnesses with an amendment to the Legislative Assembly Act.

"All of this is by way of protecting witnesses so that they have no hesitation in coming before committees for fear of retaliation or legal action. It is exceptionally important, in the committee's view, to recognize the very substantial cost associated with the protection, the possibility that it could be used by witnesses to make libellous statements with impunity. This could be extremely unfair to persons whose reputations are injured, for they have little, if any, recourse."

Following through, the next one is on the page marked four on the top.

Mr. Rotenberg: Can I have a moment on that last paragraph, Mr. Chairman? I think what you are saying in that middle paragraph on page three is that we have to be careful we do not extend privileges so far that libellous statements can be made with impunity.

Mr. Chairman: Right.

Mr. Rotenberg: I just wanted to make sure which way that paragraph was going. That is good.

Mr. Chairman: Following through then, the next one is marked four on the top. There is some confusion because these pages were put together from various pieces of paper. This page is marked four at the top; I will read the section:

"The committee recognizes that there are no easy answers to the conundrum of ensuring that witnesses feel sufficiently protected to speak openly without granting them licence to harm others. The committee has considered the possibility of reducing or removing witnesses' privileges, but has been unable to reach a clear consensus. In any event, the committee would be hesitant to recommend such a far-reaching change without ensuring that the repercussions were fully understood and without encouraging all members to make known their views."

On the following page, at the bottom, it says: "The committee endorses the carefully thought-out principles set out by the Australian Attorney General and Solicitor General in their 1972 report."

On the following page, at the bottom: "Although they occasionally take evidence in camera, Ontario committees place a very high value on conducting their business in open session. The committee therefore

recommends that the current practice of hearing witnesses in camera only in highly unusual circumstances not be altered." I think you would agree with that.

On the following page, under "Right to Counsel:" "It is by now generally recognized that no committee will object to a witness being accompanied by counsel to offer advice. It would probably not hurt, however, to have this formally acknowledged in some way.

"This raises a problem of sorts. Although in the intent of fairness it would seem that witnesses should be advised of this right to counsel, this would have to be done carefully in order that the witness not presume that he is being told in effect that it would be advisable to engage counsel.

"The question of whether witnesses' counsel should be permitted to speak in committee meetings has come up several times recently. The precedents are mixed, and this is clearly a matter to be decided by each committee on its own merits. Generally, the practice has been not to permit witnesses' counsel to speak--or, what is usually at issue, to engage in cross-examination--and the committee agrees that this is the preferable course of action, on the principle that committees should normally try to avoid adversarial, court-like proceedings. In exceptional circumstances, though, it might be appropriate to permit witnesses' counsel to participate actively in committee debate, so that no formal rule ought to be instituted."

Mr. Rotenberg: Can we make the distinction somewhere between the kind of witnesses who just wander in and give us an opinion and the kind of witnesses who are summoned? Throughout the various places in this report, like under "Right to Counsel" and so on, maybe there should be a distinction. At least we should have the Ontario Law Reform Commission look at that distinction.

Mr. Chairman: I think we are begging the question of the law reform commission, to see what they are doing about it. In the interim, we are acknowledging there is a problem and we are really leaving committees to their own devices.

Mr. Rotenberg: But in regard to this submission: There are two different types of witnesses, in effect.

Mr. Chairman: We are saying there are at least three, and maybe more. The problem we have is that committees function in different ways in different circumstances, and we do not have a good answer to it.

Mr. Rotenberg: I go back to those hearings on Bill 19, the amalgamation of the education ministries. People came here to give a point of view or to present a brief. They really were not witnesses in the technical sense, yet maybe in some ways they were. But they are different from the witnesses before the inquiry now being held

into the fire in northern Ontario. They are two entirely different breeds of cat.

Mr. Chairman: Perhaps they should be, but the fact is now they are not.

Mr. Rotenberg: I was just wondering if we should at least raise the question here somewhere as to whether different kinds of witnesses should be treated differently--not to give the answers, but just to raise the question.

Mr. Chairman: On the following page, under "Public Servants as Witnesses:"

"The facts that public servants are often seated at the front of the committee room beside the chairman or the minister may imply that they enjoy some sort of different status from other witnesses. The committee feels it important that members and public servants alike be disabused of this erroneous notion, and that the appearance of public servants before committees be treated less lightly than at present."

I think that points out that the casualness of committees here on occasion causes some problems. As Mr. Rotenberg has just pointed out, the standing committee on resources development is now in session dealing with a particular issue. If one goes to watch that committee, it is difficult to determine who is what, who is providing expert testimony, who is providing advice to a member of the House. It is difficult to sort the roles

10:40 a.m.

Certainly, although there are several different roles at play, it is difficult to ascertain who is what at any given moment. As a matter of fact, I would say that to a casual observer who walked in and sat in the back of the room, if he didn't have a score-card, he wouldn't know who is the minister involved, who is the legal counsel to the minister, who are the various staff people providing testimony. You do not know that, and it should be clarified.

Mr. Rotenberg: That is what I was trying to get at. I think we should be very explicit in our questions to the Ontario Law Reform Commission, mentioning that there are different kinds of people, with different kinds of roles to play, who appear before committees.

Mr. Chairman: We have another section near the end of this draft which will deal with that.

Mr. Rotenberg: That is on a different page. Okay. I am sorry.

Mr. Chairman: We reiterate on the following page that we feel "too much looseness exists in current committee practice of questioning of public servants,

and that a clearer appreciation of the important issues involved would be beneficial." That is the draft, and with those slight changes in wording that is the report which would be forwarded. Are there any other comments?

Mr. Rotenberg: There is another thing I think possibly the law reform commission should look at, especially with regard to witnesses who are summoned and the kinds of hearings that are going on in the standing committee on resources development. Without taking anything away from committee chairmen or members of committees, when you get that kind of a hearing, which is almost a quasi-judicial hearing, you are taking evidence under oath and you are looking for wrongdoing and so on. It is different from when you are deciding whether or not to pass a private bill. When you get a similar type of hearing in a courtroom, there is a judge, one of whose duties is to protect everybody's rights and to make sure things do not go astray or askew.

In these kinds of hearings, you can get some very unfair questions. Without intending to do it, a committee member can ask a question and get an answer which really prejudices somebody's right to some future hearing. You can get the kinds of questions a judge would never allow in a courtroom. I hope it is different, but I sometimes watch on TV the hearings which some of the American legislative committees hold and they are really pretty wide open. People can really get damaged by some of these hearings, through the inadvertence of the chairman, the inadvertence of the members, the inadvertence of other witnesses and so on.

I wonder, while we are talking about witnesses, should the law reform commission in effect be asked to provide some guidelines for the committee chairman who are holding these kinds of meetings? Is that getting beyond our scope or not?

Mr. Chairman: That leads into the next two matters I want to consider in this report. Attached to your agenda are some more specific questions which I would recommend to you be forwarded either as part of the report or attached to the letter to the law reform commission. They are rather pointed questions. I would suggest to the committee that we attach these to the draft report so that the law reform commission addresses itself to them.

They run through the ones we could come up with where a rather clear answer is required: "Do witnesses before committees have different rights, privileges and obligations according to whether they (a) appeared of their own volition..., (b) appeared at the request of the committee, (c) or were summoned by Speaker's warrant?"

Mr. Rotenberg: Can we add whether they are civil servants?

Mr. Chairman: That comes later.

Mr. Rotenberg: Sorry.

Mr. Chairman: "If no distinction currently exists between types of witnesses, what would be the implications of creating, by legislation, distinctions in the privileges accorded different types of witnesses?"

"Does section 37 of the Legislative Assembly Act apply to witnesses? Could this section be made to apply to witnesses?"

Mr. Rotenberg: What is section 37?

Mr. Chairman: Privileges.

"Does a committee have an obligation to inform a witness of all the duties, privileges and possible penalties which currently exist for witnesses?"

"Do public servants enjoy a different status as committee witnesses from other citizens? Is there a conflict between the provisions of the Legislative Assembly Act relating to witnesses and the oath sworn by public servants?"

"What is the legal status of the oath administered to witnesses under section 58 of the Legislative Assembly Act? Should the right of witnesses to counsel be recognized in the Legislative Assembly Act?"

"Under what circumstances may the testimony of a committee witness be used in a civil proceeding or a criminal proceeding?"

"In what way should the Legislative Assembly Act be amended to clarify the privileges and obligations of witnesses? What would be the implications of committees extending privilege only to witnesses who requested it?"

Those are attempts to point out areas where there is a need for a clear answer to be given. We anticipate that the Ontario Law Reform Commission would discuss the intricacies of any options and that the choice would be made by the assembly. Are there other matters which members would like included?

Mr. Rotenberg: In the covering memo and in this I don't think you have quite covered the point I just raised about the rules of order during a hearing and how close this might get to courtroom rules. I was thinking of possibly having a manual dealing with this for committee chairmen. It gets beyond dealing with witnesses; it is dealing with the conduct of a hearing where witnesses are present.

Mr. Chairman: I think we must make this distinction: It is fair game to ask the law reform commission to discuss and write a report on legal status and to make some recommendations about that, but not to deal with how this House carries out its business. That is clearly a matter which the House itself ought to decide.

The matter of how a chairperson deals with the hearing of witnesses or carries on the proceedings of a committee clearly is in our jurisdiction. We are asking

the law reform commission to examine the legal ramifications of changes in the Legislative Assembly Act and to attempt to point out areas where the status of witnesses should be clarified. But we are not asking it to offer to the House a set of recommendations on how committees carry this out. I am sure it is going to make some comments on that.

Mr. Rotenberg: With respect, I think there is a very fine line between how we run our business and how members of the public who appear before a committee have protection. How we run our business is our jurisdiction, surely; I agree. But the protection of people who are summoned before this committee or who voluntarily appear before this committee I think is something within the jurisdiction of the law reform commission, even if it means the law reform commission might recommend certain rules we should adopt for the protection of witnesses.

I can think of a person being summoned here if there have been allegations made, maybe, against a public servant, or maybe someone who deals with public servants, and that person will sit in the witness chair. There may be rumours and stories, and a member of the committee can start cross-examining a witness based on hearsay and so on. Things might be said that a judge in a courtroom would not allow to be said. A witness may have privilege and so on, but the press could be there and things may get written in the press which could be very damaging to a member of the public, to a witness appearing before this committee, which could not happen in a courtroom.

I am not sure there is an answer to it, but I think it is advisable at least to have the law reform commission look into, in effect, the protection of witnesses who appear before committees. It has nothing to do with how we run our business.

Mr. Chairman: To make the distinction then, I believe we have offered sufficient direction to the law reform commission so that it can address itself to that problem.

Mr. Rotenberg: You think there is enough in there? Okay. I just hope they will consider it.

Mr. Chairman: Is that an acceptable appendage to the draft report?

Agreed.

Mr. Chairman: The next piece of business is to address ourselves to the obvious question. Between now and the time the law reform commission provides that report and the House deals with it, I believe there is clearly a need to try to point out to the members here and the people who chair committees that these problems do exist. We should at least be cognizant of that.

I was reminded on Thursday evening when I sat in for a brief period of time on the standing committee on resources development that the things we are now discussing here apply just around the corner from this room. I wasn't terribly sure that anybody in that room was aware of it. There is a draft memo before you this morning which could be forwarded as a report to the House, or, more simply, be forwarded to people who chair committees, or to all members of the House.

There is a memorandum to the committee from the staff on witnesses, dated April 14. If you like, I can read it to you.

10:50 a.m.

Mr. Rotenberg: I do not see how this is going to do anything for us in the interim. What can we send to other members?

Mr. Chairman: Let me try to summarize two or three things in this memo which you may want to do something about. First of all, in the interim, do we want to prepare a manual or a memo or a card or whatever informing witnesses who appear before committees of some of these legalities? It might not make much sense to a witness, but it might make some sense to someone who was considering litigation and who had a lawyer there. Although we are not providing them with much of an answer, the lawyer may wish to do some preparatory work with a view toward future litigation. We could at least flag the issue so that they are aware of it.

Mr. Rotenberg: I get the impression we are not totally clear on exactly what the rights of witnesses are at this point.

Mr. Chairman: Precisely. That is why we are sending this off to the Ontario Law Reform Commission.

Mr. Rotenberg: That is why we should get something first. If we give something official to a witness or his lawyer that is not clear, we might be worse off.

Mr. Chairman: Let me try to put this as succinctly as I can.

If I were considering some kind of court action against the government of Ontario and you were asking me to appear before a committee of this House, and if I had a lawyer advising me, I would expect you would at least do me the courtesy of telling me that in appearing before a committee here and offering some testimony there are certain ramifications my lawyer should be thinking about. Do I have privilege? Don't I have privilege? How about the other witnesses? Can I quote someone else who testified before that committee when I go to court? Do I have to call him in or don't I? I should be aware of what the problems might be.

Mr. Rotenberg: With respect, if a member of the public has some possible court action in mind against the government of Ontario, I would say it is up to his lawyer to give him advice, not up to us to give his lawyer advice. His lawyer knows the statutes and he can look them up. I do not think it would be proper for us. We can list the statutes but to go any farther than that, to try to give any interpretation, would be wrong. First of all, we would be advising the other side of a possible court case. Secondly, we as a committee are not in the position to give anybody legal advice. I am very much against that.

Mr. Chairman: I am not recommending that.

Mr. Rotenberg: If there is a litigant out there, he has own lawyer. Let his lawyer look up the statutes. I do not think we should be doing that, if that is the thrust of what you are suggesting.

If you are just talking about ordinary witnesses who do not have lawyers, and drawing to their attention certain matters, that is something else, but if anybody comes with a lawyer it is up to his lawyer to give him legal advice. It is not up to us.

Mr. Chairman: Do other committee members have a point of view on this? In other words, Mr. Rotenberg is saying no information should go to people who appear before committees.

Mr. Rotenberg: I am saying specifically to people who come with lawyers, at that stage.

Mr. Ruston: We have not done it in the past, and now we are asking the law reform commission to come up with a report to the Legislature. I would be very reluctant to come out with any statement unless it is just a direction to all chairmen of committees reminding them that there have been some differences of opinion as to who has rights as witnesses and so forth, and that they should be cognizant of that fact, but I would be reluctant to make any statement now.

Mr. Chairman: Any further comments? One of the possibilities we discussed was a card of some kind, pointing out that when you appear before a legislative committee the Legislative Assembly Act applies, et cetera.

Mr. Rotenberg: May I suggest we ask legislative counsel his advice as to whether or not we should do this, and if his answer is a yes or a qualified yes, ask him to suggest what we might do? In effect, he is our lawyer.

Mr. Chairman: We can ask, but my guess is he will not be prepared to give an opinion.

Mr. Rotenberg: The problem is, once you print anything that goes beyond a little memo to a chairman drawing his attention to certain things--

Mr. Ruston: It becomes gospel.

Mr. Rotenberg: --and you put it in front of a witness, we as a Legislature have a responsibility for that document. In effect, we are giving legal advice and we are, therefore, assuming a certain responsibility for that advice. It can be used against us. Somebody can go into court later and say, "Wait a minute, the Legislature said this and they printed it, and here is what the Legislature told me I can and cannot do." We may have prejudiced the government's case in a court of law at some future time. We may have prejudiced someone else's case. I would not put anything out to the public without having a lawyer check it.

Mr. Chairman: All right. I read the consensus of the committee as being that before anything is done on this matter, you would want to discuss it with legislative counsel and get a memo from him.

The second point is the question of whether there is a need at this time to advise people who chair committees that there are some questions to be answered in this regard, that we do not have clear answers for them, and that they should be forewarned.

Mr. Rotenberg: The report we are sending to the Legislature does that. I have no objection to a summary of this being drawn specifically to the attention of committee chairman. But really, our report says that to the committee chairmen as well as to everyone else in the Legislature.

Mr. Chairman: The only problem I have is a practical one. How does one get people who chair committees here--and I remind you, that could be any member of the House. If the chairman decides he has to leave the room for five minutes he is quite likely to ask another member to occupy the chair, as does the Speaker, and while that person is in the chair he carries out the functions of the chairperson. It happened in the House just the other day.

I think you might consider providing each of the chairmen with the advice we have received from the clerk and from the legislative counsel. In theory anyway, they will read a copy of the report when we table it in the House. Will they read it?

Mr. Rotenberg: We still have the same problem. As a committee, we have said, first of all, we are in doubt as to what the rules are right now, as to what the legal position is, and secondly, whatever it is we are not happy with it. As Mr. Ruston said, we have gone along for many years without having any of these things before us. Now we are sending it to the Ontario Law Reform

Commission saying: "These are the problems. Give us some advice or suggestions on how to solve them." If at that stage we try to start codifying something, I think we are getting ourselves into trouble.

Mr. Chairman: I do not think we are prepared to codify anything. If there has been a change in circumstances, it is that we have altered the committee system here somewhat. It is now a more common practice to have before a committee people who are not ministers, members of this House or senior civil servants who might be cognizant of a great many pieces of legislation and rights and privileges that members of the public are not aware of. Do you feel there is sufficient cause to identify to the people who appear and to the people who chair the committees the problems involved?

Mr. Rotenberg: I have the same answer for the chairmen as I have for the witnesses: I think we had better ask legislative counsel what, if anything, we should be doing. Again, if you put something in front of the chairman and if you get a hassle in the committee and the chairman reads something out and says, "These are the rules of the Legislature," you may be prejudicing us and you may be prejudicing a witness.

When a chairman of a legislative committee sitting in that chair reads something which purports to be an authoritative document, whether you intend it or not, you are taking a legal position on behalf of the assembly. I am very hesitant about that.

Mr. Chairman: I am uncertain about how to proceed with this, because I am not a lawyer--

Mr. Rotenberg: Neither am I.

Mr. Chairman: --and I have not functioned as a judge in the past. I will tell you, though, what strikes me as being reasonable: In some way, people who chair committees must be made aware of the problem. I am not sure I am quite at the point where I feel each and every person who appears before a committee should take an oath and have it clearly pointed out to him that, in effect, he is testifying before a committee, but I think I am pretty close to it.

I am concerned that we are getting into areas of discussion where we are calling in people from the outside to tell a committee of the Legislature what is going on, and it is being done in a rather casual manner. I really think that if you were to err in this you should overtighten the way witnesses appear. If you erred on either side, you should err on the side of extreme caution.

Mr. Rotenberg: Yes, but how can we do that now when we are asking the law reform commission what we should do? You are asking us to take certain interim decisions which I really hesitate to take.

Mr. Chairman: Any other comments on this?

11 a.m.

Mr. Mancini: I have to agree with Mr. Rotenberg, Mr. Chairman. Why are we going through this right now when we are asking other people their opinions and we are supposed to consider their opinions? As one member of the standing committee on procedural affairs, I am hesitant about bogging down the committee system of the Legislature in all kinds of legalities.

I have to concur with Mr. Ruston when he says the way we have been doing things has served us fairly well. There might be some areas of change, but to turn our committee systems into some type of legal structure, I, as one member of this House, am not going to support that philosophy at all.

Our hands are tied enough in this Legislature in trying to get information and in trying to get things done, and if we tie up our whole committee system in a legal structure, I think you would be taking away some of the rights of the members, and I am not going to support that at all.

Mr. Chairman: You clearly have misread my intention. It is not my intention to change the rules or to bog anybody down in anything. I am simply trying to point out to this committee, and perhaps to other committees, that while you may not like all the legal stuff you are involved in now--I do not like it either--the fact is the clerk has said you are involved in it and the legislative counsel has said you are involved in it and at least we had better be aware of it.

Mr. Rotenberg: I do not disagree with the point you made, but I think legislative counsel should be asked about it. Right now we have a situation we are unhappy with, but when the rules are changed, or when we know what the rules are, then legislative counsel or the clerk or the two jointly can indicate to committee chairmen or to witnesses what the present rules are in a form which can be given to chairmen and possibly to witnesses and which will not prejudice this government or the members of the Legislature.

I do not think we in this room can make any decisions on that. I have no objection to asking legislative counsel and possibly the clerk the question: "Can we put something to committee chairmen? Can we put something to witnesses?" I do not want to change anything that is there now, I do not want to complicate anything that is there now, but I have no objection to putting something in writing or codifying the present situation if our legal counsel says we can do so without prejudicing any of us.

Mr. Chairman: That is very close to what I am trying to put to you. Is it important enough now that

some attempt be made to forewarn the committees? Obviously, I would not draft that kind of document; someone like the legislative counsel would do so.

Mr. Mancini: I think we are putting the cart before the horse, Mr. Chairman. I do not see why we have to forewarn anyone about anything when we have not decided to do anything.

Mr. Chairman: For much the same reason, I think, that we put speed limit signs on the highway. It is a little rough after the officer stops you and says, "Listen, fellow, you were doing 85 kilometres per hour."

Mr. Mancini: Oh yes, but that is already the approved law, that is already the approved legislation. Here we have not approved anything.

Mr. Chairman: It is precisely what we are doing.

Mr. Rotenberg: Mr. Mancini, at this point I disagree with you somewhat. I think all the chairman is saying is let us put down what the present rules are somewhere so that people will know what the present rules are. We want to change them, or we are unhappy with them but, if we can, let us let everybody know what the present rules are and what pitfalls there may be for a witness or a chairman or a member of a committee with the present rules. Nobody has written that down.

Mr. Ruston: The problem with that, though, is that I don't think we can state clearly what the present rules are.

Mr. Rotenberg: If we cannot, we cannot. All I am saying is if there are things we can state clearly, or our lawyers can state clearly, let us do it.

Mr. Ruston: If we could state them clearly, I do not think we would be sending this to the Ontario Law Reform Commission.

Mr. Mancini: Mr. Chairman, do you mean to tell me we have clear rules and laws that our committee chairmen are supposed to have been dealing with all these years, and that they have been ignored? Is that what we are being told here today?

Mr. Chairman: I will tell you this much: I would put every dollar in my pocket on a bet that if you went to the people chairing committees of this House this afternoon and asked who has read the Legislative Assembly Act, I think I could clean up in this room.

Mr. Mancini: The clerks of the committees are supposed to be there informing them.

Mr. Chairman: I would put half the money in my pocket on a bet that the majority of the clerks who will be in these committees this afternoon will not have read it.

Interjections.

Mr. Chairman: You are all in for a Big Mac tonight.

Mr. Rotenberg: At this stage, I would only go so far as to put the question to legal counsel whether or not something can be done. I do not think there would be any objection from the committee members to putting the question to legislative counsel whether or not this sort of thing can be done. I have reservations about it.

Mr. Chairman: I am reasonably sure what will happen, if you choose to proceed with this, is that legislative counsel, if he does anything, will draft a memo which says, "People who chair committees should be aware of the standing orders and the Legislative Assembly Act." He will probably offer some advice that clerks of the committee should also be aware of it. All he would be doing is not changing any laws but saying to the people who chair committees or who advise the chairmen of committees, "Pay some attention to what now exists and be aware that there are some areas which will be clarified when this report comes back and that there are some problems."

Mr. Rotenberg: I will not make a motion; I simply suggest we ask legislative counsel if something like this can be done without in effect saying it is going to be done.

Mr. Charlton: I would support that move to ask legislative counsel to see what he can pull together, but it seems to me there is still some misunderstanding here about exactly what it is we are talking about, judging from a couple of the comments.

It seems to me that two things have happened. The Legislative Assembly Act has set out rules that, perhaps, for the most part were set in a far more formal time. I think what has happened over the years is that the committee system, intentionally, has loosened up, for the most part at the desire of the members, in order to make the democratic process a little more open and a little more flexible. We are now in a situation where we are trying to discuss new rules, or potential new rules, that will deal with the differences in the way we now operate; and perhaps there are several different ways in which we now operate.

The committees, in part at least, are already operating in several new ways that do not necessarily concur with the existing legislation and rules in terms of protection both ways. It seems to me to be incumbent on us at least to attempt to clarify what the existing

rules are as best we can through legal counsel, through the clerk and through this committee.

Those committees which are operating in a much looser framework and the witnesses who are appearing before those committees should be able to understand the possible pitfalls we have seen in the material we have gone through, so that, if in their own minds they know something they might say might lead to one of those pitfalls, they are forewarned. I think that is the intention of what has been proposed here.

We are not trying to set interim rules. We are not trying to change anything except to make things as they now exist a little clearer until we get to the point of actually being able to recommend some new rules to the House.

Mr. Rotenberg: Putting up some caution flags. It is a good point.

Mr. Ruston: If you want to send out a memo to all chairmen, maybe including the sections we are talking about here, and advising them that they and their witnesses should be cognizant of these facts, and that the chairmen should be aware of section so-and-so of the act so that the committee is dealing with these people in the proper way, I could see that.

Mr. Rotenberg: But I think legislative counsel has to draw up that memo, not this committee.

Mr. Chairman: The consensus I see in the committee, if I could try to express it for you, is that we should approach legislative counsel and ask him if it would be a worthwhile exercise and, if so, how to do it. He could draft some kind of memo which would be circulated to people who chair committees, and most likely then to all members of the House, to identify the problem areas. If he has some suggestions about anything further, we would certainly listen to them, but we are really not in a position--and should not be--to offer advice of a legal nature to anybody else. Are we in agreement on that, that we will ask him to draft that?

Agreed.

Mr. Chairman: There is one other matter. There remains a hazy area about the production of papers and witnesses before a committee and the use of Speaker's warrants. Do you feel a need to have counsel draft some clarification of that, as to exactly when a committee can subpoena something and what that might be?

Mr. Rotenberg: Do you mean what the present rules are?

Mr. Chairman: What the present rules provide that a committee may do, yes. It has been said that the

present rules are clear; the committees just do not understand them.

Mr. Rotenberg: That might be so. Again, if there is deemed to be a need for this, I think this is another thing legislative counsel should do.

Mr. Chairman: I think what the committee is saying is that we will forward this memo to legislative counsel for his comments and ask him if he would be prepared to draft something which could then be circulated to the committees.

Are we in agreement on that? We will try to get that back as soon as he can do it and present it to the committee.

Agreed.

Mr. Chairman: Any further business?

Mr. Ruston: Mr. Chairman, would it be possible for our research staff to get some information from the other nine provinces as to the number of hours Houses in other jurisdictions in Canada sit--the days they sit, the hours, the committee sittings, et cetera? I don't want it in great detail, but just a rough idea of the number of days or hours of sittings.

Mr. Chairman: The latest edition of the Commonwealth Parliamentary Association regional review has a little study on that. One of the things I noticed is that this House had more sitting days than any other parliament in Canada last year.

Mr. Rotenberg: More than the feds? Of course, they had a couple of elections.

Mr. Chairman: Yes, they had a couple of interruptions.

I think that is a good idea and we will attempt to get that information for you.

Mr. Rotenberg: Do you want to find out if we are a hard-working Legislature?

Mr. Chairman: This has nothing to do with quality; it just has to do with the number of hours spent sitting in the chair. We will attempt to get that information for you and present it to the committee. Any further business?

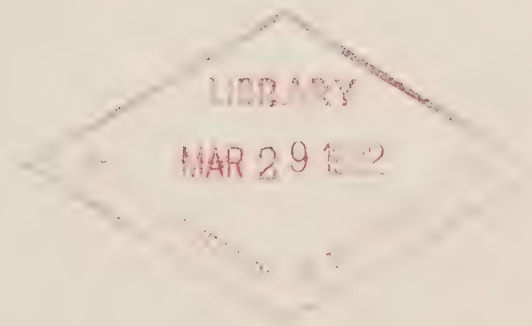
The committee adjourned at 11:12 a.m.

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STANDING COMMITTEE ON PROCEDURAL AFFAIRS

REPORT ON WITNESSES
LETTER FROM MEMBER FOR YORK SOUTH
ABC REVIEW
COMMITTEE TRAVEL
REPORT ON COMMITTEES

THURSDAY, MAY 1, 1980



STANDING COMMITTEE ON PROCEDURAL AFFAIRS

Chairman: Breaugh, M. (Oshawa NDP)

Vice-chairman: Davidson, M. (Cambridge NDP)

Charlton, B. (Hamilton Mountain, NDP)

Mancini, R. (Essex South L)

Rotenberg, D. (Wilson Heights PC)

Rowe, R.D. (Northumberland PC)

Ruston, R.F. (Essex North L)

Sterling, N.W. (Carleton-Grenville PC)

Research Officer: Eichmanis, J.

Clerk: White, G.

LEGISLATURE OF ONTARIO

STANDING COMMITTEE ON PROCEDURAL AFFAIRS

THURSDAY, MAY 1, 1980

The committee met at 10:15 a.m. in room 151.

REPORT ON WITNESSES
LETTER FROM MEMBER FOR YORK SOUTH
ABC REVIEW
COMMITTEE TRAVEL
REPORT ON COMMITTEES

Mr. Chairman: I see a quorum. On the agenda this morning we have some matters to be clarified.

The first order of business is the finalization of the witnesses report, and you will see attached to the agenda a paragraph which perhaps could be inserted in that report. This is as close as we can come to providing any guidance or direction. You may recall the matter was raised whether or not some direction ought to be offered to members of the House and people who chair committees, and whether it was possible. We were asked to see if legislative counsel and/or the Speaker's office could provide us with some background on that. I am afraid this is as close as we are going to get.

Is there anything else that any member wishes to add? There may be further information brought about that later on. Do any of you have any remarks you want to make on this?

Mr. Rowe: Let the buyer beware.

Mr. Chairman: Can we have a motion then to adopt the report?

Mr. M. Davidson moves adoption of the report.

Any discussion? All those in favour?

Motion agreed to.

LETTER FROM MEMBER FOR YORK SOUTH

Mr. Chairman: The second matter of business this morning is the letter from the member for York South (Mr. MacDonald) pointing out to members of the committee that there was a resolution passed in the House seeking some direction as to--

Mr. Rowe: I don't know where he gets the word "unanimous."

Mr. Chairman: I believe there being no dissent, it was read as being unanimous.

Are there any comments?

Mr. Ruston: Yes, Mr. Chairman, I have a problem this morning figuring out how this comes into the committee's operation. I am not totally convinced that this really is part of our responsibility.

If I recall, Mr. MacDonald's resolution had to do with all parties and the hiring of certain people in positions who are more or less answerable to the Legislative Assembly to some extent, I guess that is what you would call it--Speakers and Ombudsmen and so forth--and I just don't see how it falls into the ambit of procedural affairs.

I might be wrong, and I am open to the views of others, but right now I don't see where we could be a part of that.

Mr. Chairman: I should point out to the committee that prior to sending the letter Mr. MacDonald came to me and discussed the matter, and he brought up a rather interesting point that when the House passes a resolution what then occurs and, of course, according to the books, is nothing. The House, having made up its mind, that's good enough.

In this instance, his resolution dealt with a matter which has to do, in a sense, with the privileges of the House, and in another sense with the procedures which the House uses to do certain things. Traditionally, the kind of things that were pointed out in his resolution are really done by the Premier of the province in consultation with the cabinet and several other folks. In theory it is an exercise carried on by the House.

For example, the House chooses the Speaker. The practice and the traditions of the House are somewhat different from that. There is always a measure of consultation involved, but it is rather unstated as to what that consultation involves.

I pointed out to Donald that I thought the most appropriate course of action was to send us a letter on it, stick it on the agenda, and when we complete our review of the standing orders the next time around we will then be aware of what the resolution was and we will deal with the matter at that time. I don't sense any great urgency in the matter, but it might call for some alterations to the standing orders, or the practices of the House, and we would be prepared to deal with it at that time.

The House has passed a resolution which I don't think we would want to ignore. It is a question though of whether that would get put into standing orders, whether it would be part of a report. Whether or not this committee would take on that responsibility is another matter. It may well belong somewhere else. We would simply be aware of a resolution that was passed and would at some point report to the House with some recommendations about how it might be implemented. That's about where it is.

Mr. Ruston: If I might, Mr. Chairman, I think probably that might be the route. I think it would have to be in a report. I don't think it could be in the changing of the rules, but if we were to deal with it, it may be in a report. I have some reservations about our involvement in it although, I must admit, I

didn't look into it that much, and maybe I should have.

Mr. Rowe: I have the same reservations as I expressed last week. The Speaker, of course, is appointed by the House and, as I mentioned oft-times, someone else may nominate another person as Speaker. It happened in BC and they go by similar rules to ours.

When it comes to hiring the permanent professionals of the House, I think that is a little different--the Clerk of the House and the first clerk assistant that Mr. MacDonald included. Do you get down to the sergeant-at-arms, and people like that? Maybe not the sergeant-at-arms, but it was left open-ended anyway.

There were quite a large number. I just forget the complete list he had, but it seems to me that is a different function completely. We should not be involved, and I argued that way. Therefore, I wouldn't want to take action on it right now. As a matter of fact, I don't believe the hiring has anything to do with our rules of procedure.

10:20 a.m.

Mr. Chairman: I think the connection comes from several angles. The committee is working its way through changes in the standing orders which may nor may not be affected by this, the relationship of certain people who, in theory anyway, are employees of the House, and serve all members equally.

Mr. Rowe: Or serve as the caretaker. And I don't think the House needs to hire the caretaker.

Mr. Chairman: I wouldn't draw the analogy between the Speaker and the caretaker. However, you are experienced.

Mr. Rowe: You say they work for the House--one just as much as the other.

Mr. Chairman: So I would take it that we would simply receive the correspondence from Mr. MacDonald, and we would leave it on our agenda. We may be reporting subsequently on related matters, and we would include it in that.

Mr. Rowe: May I just point out one other big difference. I don't think it was mentioned by anyone, including myself last week. The Speaker, at the moment, is a temporary person, and he is there for the life of a government, or two governments, whatever it might be, then he moves on.

The Clerk of the House, and the first clerk assistant, I consider are more permanent employees, all other things being equal. They can quit or they can be fired, I suppose. But I think they are in a different category from people who, in my opinion, are in the same category as the Speaker.

Mr. Chairman: Any further comments on the matter? If there are no further comments then we will simply receive the letter and deal with it at a subsequent date where it seems appropriate to bring it in.

ABC REVIEW

The next item of business is the agency review. We have had some discussion with the House leaders, and a bit of correspondence. They seem to prefer that the motion to include the Board of Ophthalmic Dispensers of Ontario be not a singular motion dealing with one agency, but rather take a broader approach to it. We do not have in writing specifically what motion they would like, but in conversation with the House leaders the indication I got is that they wanted to implement the recommendation we made in our first report that all agencies come under the purview of the committee--whether that be by the mechanism of tabling an annual report or it simply be broadened.

It would strike me that the simplest way to do this is not to draft a report and table it and schedule a debate, but rather to prepare a motion which the government House leader would then read to the House to change the boundaries of what activities or agencies come before the committee. With your permission, we will take it upon ourselves to draft such a motion, and send it to the government House leader. If it meets with his concurrence that would be the vehicle under which we would make this change. Before the orders of the day he can stand and put a motion that has been agreed to by all three parties. It strikes me as being not particularly appropriate to schedule a debate on something like this.

Are there any comments?

Mr. Ruston: Sounds reasonable. Mr. Chairman.

Mr. Chairman: Okay. If we have your agreement then we will proceed using that technique. Mr. Eichmanis, do you have a revised list of witnesses, as it says?

Mr. Eichmanis: It is in preparation. I think Mr. Rotenberg indicated that he would like to have umbrella organizations dealing with northern Ontario, and I did, in fact, find a northeastern and a northwestern chamber of commerce, and I put those on the list.

I have added further to the list on the Ontario Labour Relations Board. Again, I think Mr. Rotenberg indicated he would want to have the Christian labour unions. There are two organizations, and I have put them on the list.

I have added others to the lottery corporation, the Retail Merchants Association of Ontario. And there are other organizations which the chairman indicated are not affiliated with the OFL and I have also put them on the list. So all those are on the list.

Mr. Chairman: I would take it any members who might have other groups they would like informed about the hearings or invited to make presentations here, you would feel free to inform John of what those are and we will attempt to keep the rest of the

committee aware of any groups that would be invited in. Any further comments?

Mr. Rowe: Just one question: Are we talking about groups on which there is no government appointment?

Mr. Chairman: Yes. My concern, to reiterate it once again, is that once you begin this process you can have an extremely large number who have nothing to do with the agency that's under review. As Mr. Rowe points out, there are no--

Mr. Rowe: You are really thinking of groups that are affected, I guess, by some of our formal agencies.

COMMITTEE TRAVEL

Mr. Chairman: Yes. The next item of business is, as you may recall, the committee decided it would like to go to the federal House to have a series of meetings with the committees there; the clerk was mentioned, the Speaker, a number of individuals were mentioned.

In our initial discussions with federal staff they indicated they would appreciate a little bit of time to get settled into a new session. We are now at that point where we could begin to make arrangements as to when. We need three or four weeks to set it up, perhaps less, but if you have any specific people who the members of the committee would like to meet, could you make those known now?

You mentioned Mr. MacFarlane--Gus MacFarlane, former government whip. Are there any others? Mr. Pinard, government House leader. I would take it that essentially you want to meet with the House leaders for each of the caucuses there, perhaps the Speaker and a representative from the clerk's office.

Are there any others you would like to enter into discussions with?

Could we get some indication of whether you want to sit through some of their committee sessions?

Mr. Charlton: Might it be useful if we tried to have a look at the committee chairmen and see which of them has been a chairman long enough to have some sense of how they are operating and so on, and meet with two or three of the committee chairmen?

Mr. Chairman: The other matter which has to be kind of settled in short order is precisely when. We discussed a two-day, three-night routine, either Sunday, Monday and Tuesday and come back on Tuesday, or a Wednesday, Thursday and Friday kind of thing.

We would appreciate some latitude on that, but I need to have some kind of commitment on the part of the members that they will clear their own schedules in order to attend. Are there any preferences in that regard?

Mr. Rowe: Are we talking about July?

Mr. Chairman: No.

Mr. Rowe: Or August?

Mr. Chairman: Late May, early June.

Mr. Ruston: The first part of the week would be preferable for me. I would think that would be open.

Mr. Chairman: Are there other members who have a preference on whether it's the beginning of the week or the end of the week?

Okay, we will proceed then to find the time which is convenient to them and we will attempt to stay in contact with the members so you can clear your own schedules. It is not necessary, I suppose, that everyone goes, but again I think it is important that we have representatives from each of the parties that are on the committee and that as many of you as possible attempt to attend for all or part of the sessions.

Mr. Mancini: What about the Quebec assembly, Mr. Chairman? Has there been any discussion about that, since it's our sister province and almost as large as ours?

Mr. Chairman: I would be prepared to entertain such a motion. I am not sure that we would be received with open arms just now; they have another piece of business in front of them.

Mr. Mancini: Oh, yes, but they'll get that business done and go on to regular business.

10:30 a.m.

Mr. Chairman: We hope so!

Frankly, I would suggest that if you did want to visit the Quebec assembly, we might consider that to be something that we could do in the fall, rather than now. If you have any other concerns in that regard I would appreciate hearing them.

Any other matters which you want to raise about the travels of the committee?

Mr. Ruston asked for some information on the times of sittings of other Legislatures. We have that material prepared now and we have copies of it. I don't know whether you want to just receive that information now or--

REPORT ON COMMITTEES

The final order of business for this morning, unless other members have something to raise: The members will recall that off and on we have been debating committees--what they do; how they function; the role of members; the role of people who chair the committees; what's suitable for a committee to put on its agenda; how it orders its business; the size of the committee;

substitution. We have made a number of attempts to get some kind of a direction going.

On my own initiative I have prepared the draft which you now have and I put it before you so we have a focal point for discussion. I'm not sure that there's a consensus in the committee about this, but at least it does represent a point of view to which I subscribe.

I think sooner or later we have to get some pieces of paper in front of the committee and deal with them, and that's essentially what I have done. So whether you might agree with this or not, at least we've got a piece of paper which I hope we can now work with.

I am going to suggest some rather unusual means of proceeding with this. I sense that the members of the committee have not arrived at a consensus on this yet and that there is a need to have an informal set of discussions before we begin any kind of formal work. So I have attempted to put before you a document which is not radical in nature, which adheres to at least what is my interpretation of what Camp proposed.

I think it includes a number of things that we have discussed about staffing, about agendas, about procedures, about how the committees function, about the size of committees, so at least an attempt has been made to try to include as many things as we have, as a committee, discussed in the last year. I guess it's just my own personal frustration that we do not appear to be getting anywhere with it and I very much would like to get us around to that point where we would, I hope, by the end of this session be able to report to the House that we have looked at the size, the structure and the functions that committees perform around here and that we have arrived at a consensus.

What I am going to suggest to you is that you simply receive the draft that is before you now and that we schedule in the next couple of weeks either committee meetings--and I really am not sure that it would be useful to have the Hansard running while all of this is on until we are ready to deal with it. I will suggest to you that we receive this morning this draft report from me, that we attempt to schedule a couple of occasions when we can sit down for perhaps an hour or so and simply talk about committees, and when we have finished that then I think we could become more formal and deal with this draft report on committees.

Could I hear some discussion about that?

Mr. Mancini: I think your suggestion is very good, Mr. Chairman--that we look at this and plan to have some meetings on it. I think that's the only logical course to take.

Mr. Chairman: Okay, we're in agreement then that we will receive it as a draft and that we will attempt in the next couple of weeks perhaps to forgo--is it possible to forgo the committee meeting next week?

What I'll attempt to do is see if it's possible not to have

a formal committee meeting next week but simply to have the members meet. Basically I am trying to get some consensus on this and it appears to be eluding me and has done so for about a year.

It wouldn't bother me in the least if we sat down and said that there is a clear difference of opinion and there are three options or 65 options available for the House to consider and here they are, pick them, or if the committee says we're happy about the way in which the committees function around here and there are no problems so we shouldn't bother with it. I'm looking now for a resolution to something which has been hanging around for a long while, since Camp first wrote about it in the early 1970s, so we have that.

Any further discussion on it?

Mr. Ruston: I would like to study it and then have an informal meeting. We could study it first and mark the places that we're interested in and then see if we could come to some consensus. I don't see how else you can deal with it. I think it's a good idea to have something in a form that we can start from. At least it's a start.

Mr. Chairman: Any further comments?

Mr. M. Davidson: I agree with what you have just stated, Mr. Chairman. I would be quite prepared to move it but I think I should allow the other members of the committee to have the opportunity to look through it and see if there is something in there that they may disagree with.

I agree, however, that it has been an ongoing discussion on the part of this committee for a little better than a year, I believe, and surely we are going to have to get to a point where we resolve something regarding committees here, either that they are functioning in the manner that we would like them to function or that there are areas where we can make changes in an attempt to improve the committee structure.

Mr. Chairman: Any further comment?

Any further business?

The committee adjourned at 10:40 a.m.

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STANDING COMMITTEE ON PROCEDURAL AFFAIRS

COMMITTEE TRAVEL
REPORT ON COMMITTEES

THURSDAY, MAY 15, 1980

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LEGISLATURE OF ONTARIO

STANDING COMMITTEE ON PROCEDURAL AFFAIRS

THURSDAY, MAY 15, 1980

The committee met at 10:11 a.m. in room 151.

COMMITTEE TRAVEL

REPORT ON COMMITTEES

Mr. Chairman: I see a quorum. We will start on the second item first. You may recall that we have, on occasion, talked about an alteration ⁱⁿ ~~on~~ what would be the best technique for altering the terms of reference of the committee. In consultation with the House leaders, this is the proposal. The draft report is here. If the committee would move it, it would get put on the agenda of the House. I assume then this matter would not be subject to a great deal of debate but would be called as an order and put. ^{The} ~~can~~ rules require that we table the report, it goes on the ~~Order~~ ^{Order} paper and is printed so that each and every citizen here can find out what we are talking about and there will be no surprise votes on it.

Since we have consulted with everybody we could find I don't think there is going to be much surprise in this one.

Mr. M. Davidson: ^{Will we set aside} ~~Will we set aside~~ a full evening for discussion?

Mr. Chairman: This may take a week. We may have to bring in the cameras, do the language stuff. The recommendation for a draft report is before you. Could I have a motion?

Mr. Ruston: I so move.

Mr. Chairman: Is there any discussion on it? Okay, there is a word change in the second last line. The word "major" is struck and the word "majority" is inserted.

Mr. M. Davidson: Rather than ⁴⁶major¹⁷?

Mr. Chairman: Yes. Any further discussion?

Motion agreed to.

Mr. Chairman: In case you are wondering about the last vote, if you are sitting upright, that counts as a "yes" vote.

COMMITTEE TRAVEL

Two other matters that should be rectified. First of all, I have a letter from the Board of Internal Economy dated May 7 regarding the 1980-81 budget review. "Following your appearance before the Board of Internal Economy at meeting number 480 held on May 5th, 1980, the following minute was recorded by the board.

"Item 10. Standing Procedural Affairs Committee. Moved by Mr. Gregory, seconded by Mr. ^J/~~J~~ Johnson that the 1980-81 budget of the Standing Procedural Affairs Committee in the amount of \$43,769 be reduced accordingly to reflect the decision of the board that only three committee members visit Westminster. Note: Mr. Martel opposed the motion. Yours sincerely, Robert J. Fleming []."

This leaves the committee with an interesting problem. The board, in its infinite wisdom has reduced the budget, but the board in its infinite wisdom, has not told us how much it has reduced the budget by. So that, in fact, ~~we~~ ^{we} do not have a budget. Now I seek the guidance and wisdom of the committee.

~~Mr. Chairman, that~~ ~~the budget is.~~ ~~the board is empowered to do anything it wants to do virtually~~ ~~I~~ ~~thought the Board of Internal Economy was reviewing the budgets of the committees and that~~ ~~their prime purpose~~ ^{was} ~~fiscal control.~~ ~~It appears that in this instance, the board has not bothered to set a dollar amount for the budget, but rather has decided who~~

I don't know what the budget is. Although the board is empowered to do anything it wants to do virtually I thought the Board of Internal Economy was reviewing the budgets of the committees and that ~~was~~ their prime purpose ^{was} fiscal control. It appears that in this instance, the board has not bothered to set a dollar amount for the budget, but rather has decided who

(Mr. Chairman)

~~_____~~
will do what. I don't know where we do from here.

Mr. M. Davidson: The question, of course, is certainly the board can review the budget, but do they have the right to determine what it is the committee shall be doing? I don't believe that's the case. They may say, "Well, we are certainly not going to give you the amount of money you are asking for," but I don't think they have the right to decide what action a committee will take.

Mr. Chairman: I would feel much better, quite frankly, had the board, in its wisdom, decided to reduce the budget by an amount of money.

~~_____~~
~~_____~~ That, it would seem to me, to clearly be their job and although I might disagree with it, I couldn't argue that that is what the Board of Internal Economy is to do. But, in fact, I don't know now that the committee has a budget. Every budget I have ever seen in every municipal, or provincial or local piece of business that I have been at, was ~~_____~~ about ^{How many dollars can be spent?} ~~_____~~ This motion does not make reference ^{to} a dollar amount.

Mr. Ruston: Read the motion again, Mr. Chairman?

Mr. Chairman: The motion that was moved there ~~_____~~ was moved by Mr. Gregory and seconded by Mr. Johnson that "the 1980-81 budget of the Standing Procedural Affairs Committee in the amount of \$43,769 be reduced accordingly to reflect the decision of the board that only three committee members visit Westminster. Note: Mr. Martel opposed the motion."

Now, I will tell you that there ^{are} a couple of other problems

(Mr. Chairman)

associated with that. I want to remind you that three committee members do not constitute a quorum, so that, in fact, the committee could not meet during that time period.

Mr. Mancini: We could pass each other notes, Mr. Chairman.

Mr. Chairman: You could pass each other notes, but I will point out to you one other small thing. If the committee does not meet and have a quorum, there is no per diem, nor is there any provision for taking staff. I must tell you that I am at a bit of a loss here. I don't know whether the board has approved that three members of this committee take a vacation in Britain this summer or what. But as far as I am concerned, I don't know what the budget for the committee is. I do not know in what direction I will move now and I am in a bit of a quandary. It certainly would have been helpful had I been present for the discussion which the board had on our budget and I was present after a slight delay to make a presentation. Then I was, as they say in the trade, "excused" while the board considered the matter.

Does anyone have a suggestion for me?

Mr. Rowe: I think it would be wrong to go without staff for number one.

Mr. Chairman: I think it would be wrong to go without the committee.

Mr. M. Davidson: Would it be possible, Mr. Chairman, for you to try to arrange a meeting between yourself and the board, first, ~~to~~ to get some idea of just what in the hell type of budget it is they expect us to be operating ~~with~~ ^{with}. Given that there is no figure established, I don't know. I would imagine the way that motion is written to reflect whatever it may be depending upon

DB

(Mr. M. Davidson)

what it is you cared to do when you went to Westminster, that could probably wipe out the total budget.

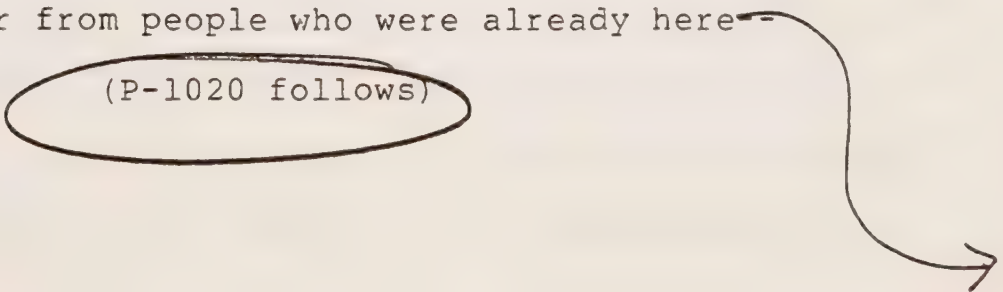
Mr. Ruston: As far as you mentioned about a quorum, Mr. Chairman, I would suppose that you could set up a subcommittee and the subcommittee could consist, certainly, of three members. I don't think there is any problem with that.

Mr. Chairman: Yes, there is a problem. If you recall in our committee deliberations, which we have not passed in a formal way, in discussing subcommittees we suggested that each subcommittee of a committee would have a representative from each political party there and someone to chair the session. Now on my fingers that comes out to four.

Mr. Rowe: You were not there for the discussion leading up to this motion, I gather.

Mr. Chairman: No, I was invited in to make a presentation. The board, in fact, seemed somewhat surprised and did not understand that the committee had, in fact, lowered its budget. They first asked me to defend the increase. However, I did point out to them that this year's budget was lower than last year's. We went over some matters and I pointed out that essentially what we had done was ~~remove~~ a budget allocation for consultants ~~we~~ we were not using, lawyers' fees, because we have tended to use staff already present in the assembly, either upstairs in the library or legislative counsel. But most of the information that we wanted, we were able to gather from people who were already here

(P-1020 follows)



(Mr. Chairman)

~~the assembly, either upstairs in the library or the legislative~~
~~counsel, but most of the information that we wanted, we were able~~
~~to gather from the people who were already here and on salary.~~ We
were not using outside consultants or outside lawyers. It
seemed not sensible to budget for things ~~that~~ we didn't use.

There was some discussion about who would go to Westminster
and why we would go. I went through an explanation of that. I
pointed out to the board that it was unlikely ~~that~~ all members of
the committee would go, ^{that} two members of the committee had indicated
~~that~~ they would not go, and so, undoubtedly, the budget was higher
than what we would actually use because not all members would go,
but ^{that} it appeared to me ~~that~~ we would have a quorum and ~~that~~ we
could go. At that point, I think there were a couple of other
questions but that was about the extent of the presentation. They
thanked me kindly and told me I would get an answer within half an
hour. Of course, two days later I did get an answer.

^{M.}
Mr. Davidson: Certainly the resolution requires some
clarification from the board as to what their intent is, ^(not only) in terms
of ~~the~~ the budgetary requirements of this committee.

Mr. Chairman: I am told, ^{by} ~~that~~ a little bird ^{who whispered it,} in my left ear,
that the staff of the Board of Internal Economy has been directed
to come up with the numbers, which is certainly an unusual way to
conduct budget proceedings. I could imagine ^{what would happen} if the Oshawa city
council decided, ~~that~~ "Well, that's a nice number, but we want you
to do two or three other things and the staff will let you know
what the final number is." I am not accustomed to those kinds of
budgetary constraints.

Mr. Charlton: Mr. Chairman, I would like to move that the

(Mr. Charlton)

chairman resubmit the budget to the Board of Internal Economy as it was originally submitted, with an explanation of the problems they have created in terms of the budget itself and the trip to Westminster, ^{that the chairman} and ~~to~~ make it clear to the Board of Internal Economy that we don't wish to send three members on a vacation this summer to Britain. ~~If~~ If the committee is going to Westminster, we want the committee and staff to go so that the discussions ~~this~~ this committee has on the findings at Westminster thereafter, are of some use to each and every one of us. If they don't wish us to go to Westminster, ^{should} ~~that~~ they reduce the budget properly by striking that item and setting a new amount for the budget.

Mr. Chairman: That's a rather lengthy motion.

Mr. M. Davidson: I hope you wrote that down.

~~Mr. M. Davidson: I hope you wrote that down.~~

Mr. Chairman: I think we have the gist of the motion, which is to seek clarification from the board and to ask for a specific approved amount. ~~It is~~ ^{It is} my understanding that they may actually get around to that. Any discussion on the intent of the motion? We will go to work on the wording.

Mr. Rotenberg: For clarification, I think you really should go back to the board, maybe formally, or informally. Maybe some other members of this committee should have some discussion with members of the Board of Internal Economy for clarification. ~~It is~~

~~It is~~ You have at least one member on the board, and some of us on this side have several members on the Board of Internal Economy. We might be able to clarify it. I would agree that three members aren't enough, although, as you say, all eight of us aren't going. Possibly if you had an indication ^{for} ~~to~~ the board of how many really

(Mr. Rotenberg)

want to go, it might clarify our position. ~~That~~ That might be of some assistance. When do you intend to go back to the Board of Internal Economy?

Mr. Chairman: Perhaps part of this is my fault because I did indicate to the board that we would be pleased to invite, since our whole committee wasn't going, people like ^{the} House leaders, as we did on the visit to Washington, ^{that} and if there were additional people who could clear the time, it would be a useful exercise.

Mr. Rotenberg: That wouldn't ^{come} ~~be~~ from our budget, though.

Mr. Chairman: No, it would not come from our budget allocation, but it would supplement the numbers. There might be others who would ~~participate~~ participate.

Mr. Rowe: ^(inaudible) ~~+~~-roaming around England at the ^{same} time.

Mr. Chairman: I am not sure whether the board felt that three people from the committee and then the three House leaders would carry this out, or what. I was not party to that discussion and I don't know clearly what their intent was. You see, I thought ~~that~~ in explaining that not all members of the committee would go, ~~that~~ I had pointed out to them that, in fact, the budget would be more than ~~what~~ was required.

Mr. Rowe: ~~if I'm wrong,~~ ^(me if I'm wrong,) ^(but did the Liberal Party) Correct ~~if~~ Mr. Chairman, ~~submit~~ ^{submit} they would not be going anyway? ~~that~~

Mr. Chairman: Mr. Ruston sent a letter to the committee, which we have, which indicates clearly that he will not go and that other members of that caucus will not go. ~~that~~

(P-1025 follows)

~~Mr. Chairman: Mr. Ruston sent a letter to the committee, which we have, which indicates clearly that he will not go and that other members of that caucus will not go.~~

Mr. Rotenberg: I don't know if this letter speaks for his colleagues or not ~~but it does~~

Mr. Chairman: Would you like to table the matter and see if some informal discussions might clarify the situation?

Mr. Rotenberg: ~~I suggest that the~~ ^{I suggest that the} ~~Chairman~~ and such other members of this committee as the chairman deems advisable, have an informal discussion with some ^{members} of the Board of Internal Economy to clarify it. That's not a motion, that's a gesture.

Mr. Chairman: I feel that I need some clarification, and time is of the essence if this is to occur. I think we would have not more than two weeks to make such arrangements.

Mr. Rotenberg: Did you have any dates in mind, Mr. Chairman? Have you had any preliminary discussions with Westminster? ~~no~~

Mr. Chairman: This is where we are hung up. We can hardly make arrangements without having approvals for the financial part of it, and as that is now in some kind of suspended animation, I frankly don't know where we go.

Mr. M. Davidson: Would you suggest ~~some~~ ^{informal} discussions? Are you suggesting we talk to the board or the House leaders? Who would you talk to?

Mr. Chairman: I did, as a matter of fact, try to explain this matter to my own House leader, who is on the Board of Internal Economy. He was the only member who opposed this particular motion. I would suggest that ~~some~~ others ~~who~~ might talk to those ^{those} who are on the board, who in fact have more members on the board, and perhaps that might clarify it. At the very least, I

(Mr. Chairman)

think we ~~we~~ need to have a specific dollar amount for the budget. As this stands, I am not sure ~~that~~ there actually is a budget that is workable. ~~That~~ That is part of our problem. I don't sense a clear consensus here, except perhaps to table the matter and to seek, through private discussions, some resolution. ~~Perhaps,~~ ~~that~~ by the time we come back, ~~that~~ the board will have got ~~around~~ around to setting a dollar amount.

Mr. Rotenberg: I think, Mr. Chairman, in whatever discussions you have with the board, you should have a reasonable indication for the board of how many people from this committee will actually be going which would help with the budget. You ~~were~~ ^{were} talking originally about eight members of the committee plus two staff, which is 10 possible. Now of those 10 possibles, how many actually ~~would be going~~ would be going? That might give you a better idea of how to talk to the board. Is it 10 or is it six or is it seven? What are we talking about? ~~What are we talking about?~~

Mr. Chairman: You see, again, what I find unusual about the motion that was passed there is that it restricts the movement of committee members. It doesn't talk about staff. ~~In~~ In fact, if ~~we~~ ^{we} want ~~to~~ to, we could proceed to Westminster with three members of the committee and hire 35 other staffers and go. That, of course, would conform with the intent of the motion, nonsensical as it might seem. I wish the staff would stop jumping up and down at that suggestion.

Are we in agreement then that we will table the matter for another week ^{and} seek clarification, ^{and} if that's not forthcoming, we will then proceed to go formally before the board?

~~Agreed.~~ Agreed. ~~Agreed.~~

Mr. Chairman: ~~It~~ It would be of some assistance if ~~you~~ ^{contacted} you ~~the~~ the clerk of the committee to give us an indication of whether or not you are prepared to go.

Now the second matter of committee travel is the matter of the Ottawa visit. As you recall, in our initial discussions with staff ~~in~~ ^{idea} Ottawa, they said it would not be a particularly good ~~idea~~ to visit until after May 20 ~~and~~ and probably on into the first week of June. Could I now get some indication from the members of the committee as to ~~the~~ your preference ~~for~~ for dates on that?

Mr. Rowe: It was indicated in the paper the other day that they expect to be sitting ^{throughout} ~~the~~ July. ~~and~~

Mr. Chairman: Yes.

Mr. Rowe: It might take the pressure off people ^{here} who are busy ~~winding~~ winding up, working towards a recess, shall we say, to arrange something in July. Has that been considered? I thought, really, that it had been.

Mr. Chairman: I would think ~~that~~ your option is that sometime in the month of June we would attempt to go, or it ^{could} ~~be~~ ^{The} be postponed until the early part of July, /latter part of June or early part of July.

Mr. Rotenberg: My preference would be for when our House is not sitting, if we have preferences. If everybody else wants to go during June, I would, but my preference would be, depending upon ~~Westminster, for July probably rather than in June because there are a lot of things coming up, especially, in the month of June~~

(P-1030 follows)

(Mr. Rotenberg)

Westminster, my preference would be for July probably, rather than ~~in~~ June, because there are a lot of things coming up, especially in the month of June. We have responsibilities here. ~~But~~ I might ~~fix it~~ and find I just could not go because something might come up in the House that we would have to be at. I think, for my first point, I would rather schedule it, if Ottawa is sitting through July, when we are not sitting. Then there is no pressure. We are better off.

Mr. Charlton: Just one comment, Mr. Chairman. I don't have any problem with any time during June or the first two or three weeks of July. I would just like to inform you that I have vacation booked from July 19~~th~~ until the end of the month. My preference would obviously be that we do it before July 19~~th~~.

Mr. Rotenberg: We could close up on June 20~~th~~, which is possible. That's the target date. We might go ~~in~~ the following week.

~~Mr. Rotenberg: That's not acceptable. Only two weeks.~~

~~(2) He's having a good time.~~

~~Mr. Rotenberg: Ottawa, Vancouver.~~

~~Mr. Rotenberg: Scarborough and Mississauga.~~

~~Mr. Rotenberg: Careful, we might take you out of the~~

Mr. Chairman: I almost hear a consensus that the visit to the federal Parliament ought to be at the conclusion of this session and that would mean probably the last week of June or the first week of July. Are we in agreement on that?

~~Mr. Rotenberg: Yes, I agree.~~

~~Mr. Rotenberg:~~ Okay, could I ask you then to clear your calendars for those two weeks until we can set this up?

Mr. Rotenberg: Which two weeks ~~was that?~~ was that?

Mr. Chairman: The last week of June or the first week of July at the conclusion of this session, is what we are saying. Are we in agreement?

Mr. Rotenberg: Our tentative date for Westminster was the second week in July, was it?

Mr. Chairman: Yes, the second week.

Mr. Rotenberg: That's the week of July ~~7~~ 7^o.

Mr. Chairman: I don't have a calendar, but--

Mr. Rotenberg: It's a Monday.

Mr. Chairman: Any further questions about any of the matters that have been discussed ~~up~~ until now?

REPORT ON COMMITTEES

Mr. Chairman: The next matter is the report on committees. You may recall that you have a draft report which is before you and we were considering what might be the most appropriate way to proceed with it. A suggestion was made that an informal meeting would be the best way to do that. I am told that it is not kosher for this committee to have a dinner meeting, unlike some other committees around here who do have dinner meetings.

Mr. Rotenberg: I can arrange a kosher meal.

~~_____~~

Mr. Chairman: You just bought yourself an obligation. Is it carried unanimously?

Mr. Rowe: How does that fit in with the Scarsdale Diet?

Mr. Rotenberg: What do you mean, we can't have a dinner meeting?

Mr. Chairman: I am informed by my staff ^L of one ^L that the

(Mr. Chairman)

rules do not provide for dinner meetings.

Mr. Rotenberg: All you are worried about is the expense.

Mr. Chairman: I will take it, yes.

Mr. Rotenberg: But seven members could sit around for dinner and each pick up ~~their~~ ^{his} own tab and we could have an informal meeting.

Mr. Chairman: If that is agreeable, we can proceed that way?

Mr. M. Davidson: I don't understand that, Mr. Chairman, because I have attended breakfast meetings with a committee ~~which~~ ^{which} picked up the tab.

Mr. Chairman: I must admit that I didn't get to eat last Monday at the Board of Internal Economy but it struck me that they were rolling in the trucks full of sandwiches. However, this is not exactly the kind of matter that I would choose to go to the barricades about, ^{Particularly} if it was downstairs.

Mr. M. Davidson: During the discussion of the final report on Bill 3, ~~that~~ that was held over a breakfast meeting which the committee chairman picked up.

Mr. Rotenberg: What rules are there? ~~We~~ ²⁸ haven't got any expenses for--

Mr. M. Davidson: First of all, we don't have any budget to pay--

Mr. Chairman: Yes, that's our first problem. We don't have a budget. At any rate, are we in agreement that we could find a time at which the members of the committee would assemble somewhere for an informal discussion of this draft report? Does anyone have a suggestion?

Mr. Rotenberg: I would suggest either a Tuesday or a

DB

(Mr. Rotenberg)

Thursday downstairs at dinner time, if it would be convenient, if we are going to do it over the dinner hour.

Mr. Chairman: What about this evening?

M.

Mr. Davidson: I am not able to attend this evening, Mr. Chairman. Next Tuesday or ~~Thursday~~ Thursday is fine but I can't attend this evening.

Mr. Rotenberg: Both Tuesday and Thursday of next week are out for me.--

(P-1035 follows)

Mr. Rotenberg: Both Tuesday and Thursday of next week are out for me.

Mr. Chairman: Okay, let's attempt then to schedule in the following week, that kind of a discussion.

Mr. Rotenberg: You might even try lunch one day before the House.

Mr. Chairman: Lunch on Tuesday?

Mr. Rowe: Evening is better because unless you are really tied up or occupied for the evening session, you might be able to stretch it if necessary.

Mr. Chairman: ~~Evening gives you a much longer~~ I generally look for excuses ~~to~~ to get out of caucus.

Mr. Rowe: How about next Tuesday?

Mr. Chairman: I can't Tuesday evening. It looks like it will be the following week, then. Okay, we will attempt to arrange the week after next, ~~or~~ Tuesday or a Thursday evening, ¹⁹ six to eight o'clock ~~meeting~~ meeting.

Mr. Rowe: On Tuesday, many of us have an obligation.

Mr. Chairman: Since we are paying for this ourselves, are the members prepared to go someplace where they serve actual food?

Mr. M. Davidson: Most certainly, Mr. Chairman.

Mr. Chairman: We will attempt to find a reasonably priced place that has a small room where we could sit and converse on that. Agreed? If they have to serve kosher food, Mr. Rotenberg, you may be asked to select the spot. Any further business?

~~_____~~
~~_____~~
~~_____~~ As there is no further business, the committee stands adjourned.

The committee adjourned at 10:36 a.m.

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STANDING COMMITTEE ON PROCEDURAL AFFAIRS

COMMITTEE BUDGET

LETTER FROM GOVERNMENT HOUSE LEADER

THURSDAY, MAY 29, 1980

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STANDING COMMITTEE ON PROCEDURAL AFFAIRS

Chairman: Breaugh, M. (Oshawa NDP)

Vice-chairman: Davidson, M. (Cambridge NDP)

Charlton, B. (Hamilton Mountain, NDP)

Mancini, R. (Essex South L)

Rotenberg, D. (Wilson Heights PC)

Rowe, R.D. (Northumberland PC)

Ruston, R.F. (Essex North L)

Sterling, N.W. (Carleton-Grenville PC)

Research Officer: Eichmanis, J.

Clerk: White, G.

LEGISLATURE OF ONTARIO

STANDING COMMITTEE ON PROCEDURAL AFFAIRS

THURSDAY, MAY 29, 1980

The committee met at 10:11 a.m. in room 151.

COMMITTEE BUDGET;
LETTER FROM HOUSE LEADER

Mr. Chairman: I see a quorum and I will call the meeting to order.

You may recall that at the last meeting we decided to suspend debate on Mr. Charlton's motion pending some consultation, as they say, with various members of the Board of Internal Economy. For whatever reason, the matter was not raised there, so I assume the committee would now want to resume the debate on Mr. Charlton's motion. We have typed it out and put it before the committee. We will hear from Mr. Charlton, Mr. Rotenberg and anybody else who wishes to comment.

Mr. Charlton: Thank you, Mr. Chairman. It seems to me that we have been dealt with in a rather strange fashion by the Board of Internal Economy, as have a number of other committees this year. As a result of the board's action in the case of our budget--not having set any particular figure and, therefore, leaving this committee with really no budget in place--and as my motions says, it is my feeling that we should resubmit our budget as it was originally submitted.

I also feel the chairman should include with that budget an explanation, first of all, of the reason why we are resubmitting it so that we do end up with a figure from the board. I think we would like to include in that the specifics of where the cuts are being made.

I think the chairman should also include in the explanation to the board the fact that this committee is and has been studying the committee system, and that the purpose of the trip to Westminster--since they seem to have indicated that is what they are cutting, without specifically talking about dollars--the purpose of that trip, it should be made clear to the board, is to continue the study of committees, as we did in Washington last year and as we will do in Ottawa this year. Their approach to that process is not really fair to the members of this committee.

Any discussions that we might have about the committee system which arise out of the trip to Westminster would leave some members of this committee in a difficult position if they had not been there and had not viewed the process. They would not know what the three or perhaps four members of the committee who did go to Westminster were talking about. That is not consistent with what this committee is about or what we are attempting to do.

I, like the chairman, don't like the board's process this year. First of all, in effect, it is dictating to this committee what it can and cannot do, and that limits the committee. If I recall correctly, there was there was also the threat--at least it was implied--that perhaps the board would even attempt to name the members that were to make the trip. I don't know if anything has ever come of that, but that kind of suggestion bothers me as well.

Since we have no firm budget and since we have no other way but to go back to the board to get a firm budget, I think the most appropriate thing to do is to resubmit our original budget, laying out along with that our objectives and our concerns with what they have done.

Mr. Chairman: Just before we continue the debate, I want to point out that you now have in front of you copies of my correspondence in regard to this matter. It is somewhat skimpy, but that's it.

There are two letters of particular note. One is the only formal notification I have received of that part of our budget that the board approved. You will note that there is a motion there: "Moved by Mr. Gregory, seconded by Mr. Johnson, that the 1980-81 budget of the standing procedural affairs committee in the amount of \$43,769 be reduced accordingly to reflect the decision of the board that only three committee members visit Westminster." It is also noted that Mr. Martel opposed the motion. That is the only recognition of our budget submission that I have received so far.

The second item I would call to your attention is a memorandum, which, oddly enough, is dated May 27, 1980, and which points out to all standing and select committee chairmen the board's motion on committee travel. This motion was passed on April 24, 1978, and it is a little difficult to understand why they passed a motion in April 1978 but did not bother to tell anybody about until May 27, 1980. None the less, the motion is there: "Moved by Mr. Nixon, seconded by Mr. Auld, and agreed, that proposals for committee travel must be approved by the board during the review of committee budgets." Again, Mr. Martel dissented.

We did provide a breakdown of costs and an explanation, when I was there, of what the committee wanted to do and why it wished to do so. There was, of course, a precedent in our travel to Washington.

I was not aware of this policy of the board. It is my understanding that there has been some discussion that we perhaps should clarify the precise role of the board, and that matter may be raised when the Speaker's panel meets to discuss the summer session.

That's all the information I have to present to the committee. Maybe we could resume the debate.

Mr. Rotenberg: Mr. Chairman, I would support Mr. Charlton's motion. Without going into too much detail, I think we should go

back to the Board of Internal Economy and indicate that sending only three members, which is not a quorum of the committee, is not satisfactory. I understand the whole committee isn't going, and I think, as a result of the conversations we have had, you can indicate to the board what, in dollars, is the request of the committee.

I think that 1978 motion has been sent out because of the fuss on travel, and I also think the board, if it wishes, can legitimately request the travel budget and approve or disapprove the travel costs as part of the budget. That is legitimate. But I also think it should give consideration to what is a legitimate request from this committee, that we should have more than three members go and that we have to have at least one staff member go.

I would support the motion saying, in effect, that you go back to the Board of Internal Economy at the earliest possible moment and ask for a review of this decision, as requested by the committee.

Having said that, Mr. Chairman, I think that, because of the timing and so on, our original idea of going to Westminster in early July is a little unrealistic. I would suggest that, without formalizing it, we give consideration to going at some later date, possibly in late August or early September, if Westminster is still sitting then; that is, before we come back for our fall sitting.

If they sit in early January, which is still in this fiscal year, we might do it at that time, but I think the first week in July would be a little difficult now, by the time we get approval and try to make arrangements. I don't think it is going to work.

Mr. Chairman: I think I should point out to you, as we continue this debate, that the passage of this motion will most likely mean that, for practical purposes, we cannot go during the original time period we had considered, and it will mean a delay in the process, whatever the answer is. We just couldn't put the mechanics together in that short a time.

Anyone else?

Mr. M. Davidson: I would just like to speak briefly in favour of and in support of the motion. I question the actions of the Board of Internal Economy based on the motion that it apparently passed on April 24, 1978.

I see very clearly that by that motion it would have to approve or disapprove any proposal put before it. The motion does not contain within it any provision for the board to make alterations or determinations regarding committees' work. It simply reads: "Moved by Mr. Nixon, seconded by Mr. Auld, and agreed, that proposals for committee travel must be approved by the board during the review of committee budgets."

10:20 a.m.

I would assume that "approve" also means "disapprove," if

they choose to do so, but I don't believe the Board of Internal Economy, based on that motion, has the right to make alterations to a proposal put before it. If it doesn't approve the proposal, I would suggest that it be sent back to the committee and that the committee make the necessary alterations, based on the amount of money the board is prepared to give.

I think the decision the board makes is whether or not it is going to allow us the budget we have submitted. If it is not prepared to do that, it should send it back to us and say: "We are not prepared to approve this budget. These are the reasons why we are not prepared to approve it. If you restructure your proposal and sent it back, we will look at it again." But I don't think it determines who is going to do what. I think it is up to the individual committees; not necessarily just this one, but any committee.

Mr. Chairman: Any further discussion on the motion?

Mr. Ruston: Mr. Chairman, as you say, this motion of April 24, 1978, does throw some light on the operations of committees. I am not sure. I realize committees are bodies in themselves and should be free to handle their own affairs, but I really think there should be an overall policy that someone has to approve their budgets.

In other words, I think it is quite possible that, if there were no overriding committee or person to look at each committee's budget proposal, you very well might have some committees that like to travel and they could just take off to Lord-knows-where whenever they wanted to--if there wasn't some kind of co-ordination.

I don't think I have ever seen this motion of April 24, 1978, unless I did and forgot about it. Anyway, it is nice to be reminded.

I don't disagree with the principle that there should be some co-ordination of this. One particular committee, whichever it might be, might just have the power to set up its own budget and take off. I also don't disagree with the general philosophy of three people going to investigate something in some area. If it would save an awful expense in travelling, I am not sure that three people and a researcher, or some staff person, whoever it might be, couldn't put together as much as eight or nine. That's my opinion, anyway.

I am not sure I disagree with this, yet I can see that here they chose, rather than send it back to us and tell us they were not prepared to give us that much money, to reduce our budget. Perhaps it's just a matter of sorting it out ourselves.

I think if that is going to be a policy, then, of course, it should be a stated policy that all committees have to adhere to. The committee knows my feelings on the trip anyway, but that is another matter. I am looking at it as an overall policy. If, at some time, we are going to have an overall policy on travel that says the committee will be limited to so many members if it does

go, I don't disagree with that philosophy, as long as it is going to be an overall policy for all committees.

I am torn here as to whether to support the motion. I really have some reservations about the way it has all come about. I think we should go back. I believe Mr. Davidson made the point well when he said that if they are not going to approve our budget they should send it back to us and then we will have to work it out. I have to think that is a fairer way.

I guess, if that is, in effect, what we are doing, I agree with the motion--if that is what we are really asking.

Mr. Chairman: Any further discussion on the motion?

Mr. Sterling: I just think that in terms of the trip to Westminster, if it is suitable for three to go, in my view, it is suitable for any number of members of this committee to go, if they so desire, to take the political consequences of travelling to England for that experience.

I don't agree with Mr. Ruston in saying that a researcher can go there and bring back material which can be read by a member of the committee. I think the experience gained by the dialogue that any members will have with both clerks and members of Westminster is invaluable. As elected members of this Legislature, the choice really is whether the trip is worthwhile or not.

If it is worthwhile, then I think the individual members should make their own choices as to political consequences of them going on that trip.

Mr. Chairman: Anything further?

Mr. Rowe: There always has been control of travelling. As a matter of fact, not too many years ago, before the Office of the Assembly was set up by the Management Board of Cabinet, for one thing there was a very firm rule that there was no travelling off the continent. Now, admittedly, it was just as far to Vancouver as it was to London, but politically it didn't look as bad. But travelling, perhaps, has got out of hand over the last few years.

As far as responsibility to the Board of Internal Economy goes, they certainly do have the power to control the spending by any body in the Office of the Assembly and that includes all committees. So, as for the legal right to do so, it is their responsibility, as a matter of fact.

I do know that it is pretty easy to spend somebody else's money. I really think I would go along with the re-representation of the request to the Board of Internal Economy and if the number has to stay the same--that is the number of MPPs--it should be increased by at least one staff member to record the events and go with them.

Mr. Chairman: Any further discussion?

Mr. Charlton: If I could just, as the result of a couple of

comments that have been made, try to make clear, once again, the intent of the motion.

I think this committee, as all committees, was well aware that they were submitting their budgets to the Board of Internal Economy for approval. I don't think that's the question in the motion, or whether or not the Board of Internal Economy has the right to approve or disapprove of budgets. I think Mr. Davidson made the point well when he said that we would not disagree with the board's right to say: "Look, we don't think the trip to Westminster is necessary. We would like you to review your budget."

That's one thing, but if you sit and look at the two letters which the chairman has provided the members this morning, the motion from 1978 and the motion regarding our specific budget, that's not, in effect, what the Board of Internal Economy has done. As Mr. Sterling has mentioned, they have not disapproved of the trip to Westminster. They have taken on the task of running this committee's business for it. That is what I object to.

I agree with Mr. Sterling that if the trip to Westminster is appropriate for this committee in its deliberations in studying the committee system, then that trip should be available to all members of the committee. If the Board of Internal Economy's concern is that the trip is not necessary, dealing with the kinds of things Mr. Ruston raised about a committee that perhaps went hog-wild with travelling, the board should have the right to send that budget back and say: "Look, you have just outdone yourselves here. You sit down and rework your business and decide what your priorities are but cut some money out of that budget." If they want to set a figure as to what they want cut, that's fine, but allow the committee to decide what and how it wishes to do of the business it originally selected.

The same is true here. If this trip to Westminster, for the purposes of this committee, is useful, then it is only appropriate that all members have the ability to partake of that by their own choice. If the trip is inappropriate, then the board should say that to us and that's fine, but not to say that a trip for all members of this committee is not appropriate and only three can go. I think that is the real question here.

Mr. Chairman: Okay, are you ready for a question?

10:30 a.m.

Mr. Rowe: May I ask for a clarification? There was a proposal that another committee had before the board to travel to Australia. I heard that there was just one person requesting it or was asking permission to go. What happened? Does anybody know?

Mr. Chairman: Okay, I think in part, what is going on here is that all committees are running into the same difficulty in dealing with the board. The board, at least, has not made the people who chair committees and the people who sit on committees around here fully cognizant of what the board's approach to this is.

There was a problem with two other committees; one concerning the nature of the work and the size of the budget and I am not sure that has been resolved either. There was another committee which submitted--I am told and this is not official--two budgets proposed and you could choose which one you wanted; one of which, I think, involved a similar approach to this which is one from each party. I believe the chairman was included in that--but I could be wrong because these minutes are not as available as Hansard--and another one, which said, "If you don't like that one, send one person." I am not sure whether there has been a resolution to that problem yet.

But everybody is having a little difficulty, in this trip around, determining precisely what the policies are. My version of it is that the Board of Internal Economy is well within its jurisdiction and ought to be controlling expenditures of money for a number of reasons, one of which is that you really wouldn't want to have committees independently sitting all over the place, racking up whatever they felt was appropriate and away they would go. If you can separate it, that aspect of fiscal control is clearly within their jurisdiction.

The argument seems to centre on there not being clear definitions of whether the committee could then choose to alter its own budget allocation, could delegate four members of a committee or all members of a committee or whatever. There seems to be some haziness there about precise lines of who makes what decisions. That seems to be where it is at.

Mr. Sterling: I think the problem is that they are not willing to face the issue. The Board of Internal Economy is not willing to say, "We don't think this is necessary," or, "This isn't necessary."

I don't know how in this case they can talk about three members going to Westminster at all in terms of arguing that it is or it isn't necessary or it will be beneficial to the work of this committee. I think they have to take into account the distance, the costs, to gain that experience, et cetera. I just don't know whether I think they should make that decision overall.

For instance, in the justice committee yesterday, there was a decision that the justice committee was going to travel all over this province to hear people on Ontario Housing. I don't know what kind of costs are involved but they didn't even address that. The committee hasn't decided yet, but the three party representatives, although it wasn't unanimous, decided they were going to do this.

Mr. Chairman: It is a very complicated piece of business. I think we are hung up on our own past practices. We have not had clearly established policies which are published and everybody understands.

Quite frankly, as the board explained to me, their criterion or benchmark is that if you leave Ontario, they want to have the power to establish how much that costs, which leaves open the option that this committee could go on the road for the summer around Ontario, entirely on its own, and the cost of that would

not be questioned, because we would stay within the confines of this province.

If you moved outside of Ontario, as Mr. Rowe has said, we could travel from one end of the country to the other and apparently meet everybody's guidelines. The factor of how much money this is going to cost doesn't arise.

There has been some precedent set in the past, for example, for the chairman of a committee, without telling the committee or, in my view without very much accountability at all, to decide, "It is important for me to go to Washington or to London or anywhere else." I haven't done that. I am not particularly opposed to the notion of giving the members of a committee allocations of money for travel purposes. As several members have said, it might make sense on occasion to have one member from each party go someplace. But this committee decided that the committee as a whole ought to have the right to participate in this kind of an exchange.

There are different approaches which could be taken but I think there is a problem here which must be resolved. This resolution, at least, begins that process. Any other comments?

Mr. Rotenberg: I agree with the resolution but just to be fair to the Board of Internal Economy, I think it is legitimate for them to say: "A trip to Westminster has some legitimacy but we don't think the whole committee should go. We think one member from each party should go." I don't agree with that, but I think it is within their province or their purview to do that. I don't think we should be criticizing them by saying they should not be allowed to do that. They should be allowed to do that, but I think they made a mistake. I think they have the right to do that because they are really the financial--

Mr. Chairman: That is the other matter which is under some discussion now. What are the demarcation lines? What can a committee decide? What can the board decide? The policies on where the decisions lie are not that clear.

Mr. Sterling: I guess what we are saying to them is that we don't agree with the decision that only one member from each party should have the right to gain this experience. I don't know whether this resolution expresses that or not, but we are not agreeing with that decision.

Mr. Rowe: I think the other part that is coming up more and more often is the very fact of where does any committee get its authority to do whatever it does?

Mr. Chairman: Yes, to travel all over.

Mr. Rowe: It used to be and I think it really should be getting back to it, that they should be doing what they are directed to do by the House. There are some committees, in the last couple of years or so, which have embarked upon schemes they dreamed up themselves, not only for travelling but also for areas of investigation, things which, it could be argued, were never referred to them from the House.

Mr. Chairman: Or aren't in their original terms of reference. Okay, are we ready for the question on this matter?

Mr. Rowe: There is a lack of clarity in both committees. You mentioned one just a minute ago. What right do they have to be travelling all over, this committee on justice or whatever it is?

Mr. Chairman: Mr. Charlton has moved the motion that is before you.

Motion agreed to.

Mr. Chairman: We have the draft report on committees which you have had for some time. Perhaps I could just set that aside to introduce a couple of other matters which have been referred to me, as chairman, by the government House leader. I find them a little interesting.

You have the letter before you, so I won't read it in its entirety. It points out three matters, which are, in part, on the committee's agenda and I want to run over them quickly. On the matter of raising points of privilege, I found it interesting that, "Mr. Nixon asks that the committee consider the United Kingdom model, which has been completely satisfactory to members, whereby any point of privilege must first be raised privately with the Speaker, whose decision on whether there is a point to be raised in the House is abided."

I must say that in my conversations with members of the British House I would not be so bold as to say that all members are pleased with that system. As a matter of fact, when I was there, the members were rather irate that every time they turned around, they had to go through the clerk's office, had to get it in writing and if the Speaker chose not to hear their point of privilege, it was simply never heard. They abided by that because the majority of the members there accepted it, but I would not be so bold as to say everybody accepted it. That is one matter, the raising of points of privilege, where and how and when.

Second, there is the matter of interventions. As you recall, there was a debate on the committee report where--this is in part my fault--one interpretation of an "intervention" was given to me in the afternoon. We were deciding how we would proceed with the committee's report, which was, I think, in about five parts and we had rather agreed that it was my proposal that the House go into committee to consider the report, which would have allowed the latitude of some exchange back and forth. The government House leader said: "No, that is not necessary. You can use an intervention if you want to explain a point or clarify something." The only problem was that in attempting to do so, the Speaker ruled that that was out of order. That was not a proper intervention.

The third matter is the matter of committees. We have a draft report. I find, frankly, this a little unusual where the government House leader says, "I hope you and the committee will let the caucuses have an input and ventilation of your draft ideas

on 'committees,' before you proceed to any major degree towards a decision."

The only thing unusual about that is that we did circulate draft reports, to each and every member of this House for his comments, better than a year ago. We have invited, on two occasions, all House leaders to come to the committee and participate and they have done so. We would certainly be very pleased, when the committee is finished with its latest draft on it, to circulate that again.

I guess part of the problem is that Mr. Wells was not the government House leader at the time when House leaders attended the committee on two other occasions.

I just present that to you for your information. I would consider that all three matters are well within our jurisdiction and are already on our agenda in one form or another. Any comments?

Mr. Rotenberg: Will these be coming up at future meetings?

Mr. Chairman: Yes. I would point out to you that we have a number of matters of that kind which have been put to us either by individual members or by one of the House leaders and we suggested we would adopt an approach whereby, once a session, we would put together a report which would go back to the House and have that kind of debate. That's the way those things will be handled. Any argument about that?

You have the report on committees. As you know, we have attempted, on a couple of occasions now, to have some informal consideration of this draft report. We seem to be having some difficulty finding a time.

Might I suggest this to you? We have a little difficulty gathering everyone together. Might I suggest that we adjourn the meeting now and spend perhaps about an hour on informal discussion here and then we could pick that up this evening downstairs. Would that be an agreeable way to pursue it?

Okay, so the committee will stand adjourned and we will stay in this room and have a little chit-chat about it.

The committee adjourned at 10:43 a.m.

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STANDING COMMITTEE ON PROCEDURAL AFFAIRS

DRAFT REPORT ON COMMITTEES;
COMMITTEE TRAVEL

THURSDAY, JUNE 5, 1980

LIBRARY
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STANDING COMMITTEE ON PROCEDURAL AFFAIRS

Chairman: Breaugh, M. (Oshawa NDP)

Vice-chairman: Davidson, M. (Cambridge NDP)

Charlton, B. (Hamilton Mountain, NDP)

Mancini, R. (Essex South L)

Rotenberg, D. (Wilson Heights PC)

Rowe, R.D. (Northumberland PC)

Ruston, R.F. (Essex North L)

Sterling, N.W. (Carleton-Grenville PC)

Research Officer: Eichmanis, J.

Clerk: White, G.

LEGISLATURE OF ONTARIO

STANDING COMMITTEE ON PROCEDURAL AFFAIRS

THURSDAY, JUNE 5, 1980

The committee met at 10:09 a.m. in room 151.

DRAFT REPORT ON COMMITTEES;
(continued)

COMMITTEE TRAVEL
(continued)

Mr. Chairman: The chair sees a quorum.

We have on the agenda this morning one item. That is the draft report on committees, which the members have had in their possession for about four weeks now. It has been before the committee for three years. It has been studied by several other eminent committees, none of whom have made the Toronto Sun's editorial pages. I want to point that out.

Mr. Ruston: Did they spell your name right?

Mr. Chairman: You can't complain when they spell your name correctly.

10:10 a.m.

I think it is time that the committee in some way focused this discussion about committees. As I said before it has been around for some time. This draft report is probably the closest thing we are ever going to get to consensus. I don't sense that there is any clear consensus in many people's minds about what changes might be made. As you know we've had correspondence from the government House leader and a number of other people asking us to consult. We have used that process fairly extensively I think, about as much as we can do with the staff that we have at hand, and the reason as I said when I put this before the committee is that it was my personal feeling that it was time for the committee to focus on the matter; to give people a piece of paper upon which they could deliberate.

Let me propose a course of action to you then, which might do two things. First of all, get people to do that focusing exercise and secondly, provide something concrete that can be the basis for discussion for I would take it, some period of time.

It's my perception that the House itself is not ready to adopt a report such as this in short order, and perhaps that's as it should be. But I do feel an obligation on our part to clear this matter from our agenda, in the best way that we can do that, and in my view, the way to proceed from here would be to move the adoption of this report, to entertain some discussion in this

committee, and to table this report in the house; to get it printed, to get it circulated, so that all members in all caucuses, the House leaders, the Clerk's office, a great many people can then have a document to look at which will be at least the focal point for the discussion about whatever changes might occur in the committee structure here.

Now I would be remiss if I didn't compliment the two staff people who drafted this. John and Graham, I think, have done a magnificent job at sitting through and sifting through all of the ideas that have been presented by the House leaders, the other members of the legislature, people on the committee, and coming as close to a consensus as I think you could get.

There are some matters in here which may not meet everybody's requirement. But I think that in putting it in this draft form, we will at least generate discussion about that. It would be my hope that the committee would see fit to approve the draft and let us present that to the House, so that the House will have a document upon which we will have the course of the summer and perhaps some time after that to talk about, to discuss, and then we will in the fall session, deal with the matter of when we might debate such a report.

In all of the reports that have been done, Lambert, Morrow, whoever, you face the same problems. You can't get everybody to agree on the precise nature of it because it's so complex. Each of those committees in their turn did much the same thing. They got it to a point where they felt they had discussed it long enough. There was a need to draft a report, to put everything on paper and to put it up so that other people can see what one group of people thought of a given situation.

And in each of those--having talked to some people who served on those committees--there was not the unanimous consent that we may often try to get in this committee. So the end result was a document much like this, in nature. It is specific in some sense, in the sense that it puts some recommendations forward. It is comprehensive in the sense that it attempts to cover all the considerations that were raised and to move toward a consensus.

So having said my little piece this morning, the suggestion that I would have for you is that we move to accept this report. We proceed through today and if necessary next week, to debate the report here, and that by the end of the session we table in the house a document, this document, or something similar to this document so that all members may have the summer and the fall and however long they wish to debate, but at least we have them focused on one set of recommendations and one piece of paper.

Mr. Charlton: Thank you, Mr. Chairman. I think I would have to tend to agree with that. I've been through the report three times now and probably like most members of the committee there are a lot of things in the report that I agree with and that I feel comfortable with. There are also some things in the report that I feel a little uncomfortable about. It's probably true for every single member of this committee. If we were to start going through the process of trying to eliminate those things that some

members feel uncomfortable about, we would probably end up with no report at all. Because there just isn't a total consensus. That's been very obvious. The things that each of us feel uncomfortable about do not happen in any large way to coincide, so you would end up with not a whole lot left if we started eliminating things.

In order to deal with submitting this report to the House in much its present form, I think it might be useful for the committee, through the chairman, to add a cover that lays that out; that the items that are dealt with are majority views, but that the consensus just does not exist in total, and that the disagreements vary from party to party right across the committee, from member to member. It might be useful to point that out in the report in some fashion so that the House can understand why we are making this report.

Mr. Chairman: For example, in the preface part, are you suggesting that the chairman of the committee writes a little page indicating that kind of problem.

For example, when I went through this again last night, one of the things that struck me is that there are some things which I would like to see altered somewhat. But it is a bit of a package deal. If one begins to move around one of the recommendations, then that alters all of the other recommendations.

Mr. Charlton: Exactly.

Mr. Chairman: If I view it as a total entity, I find it acceptable. If I look at individual pieces, I can find some quarrel with some of those.

If your suggestion is that included in or outside the preface is a letter of transmittal of sorts from the chairman of the committee, saying that we have looked at this for three years and this is where we are at and we think it is now time to go back to the members of the Legislature and seek their ideas and whatever alterations they might have on the matter, I am certainly agreeable to that.

Mr. Charlton: That is what I am essentially getting at, so that the House is clear that this committee is recommending the report to the House for further discussion and change because we do not have a total consensus; we've gone about as far as we can presently go with the project.

Mr. M. Davidson: If I am looking at this properly--and I believe I am--I think that all committee members are prepared at least to follow the procedures that have been laid down.

Mr. Chairman: Mr. Davidson moves that the report be sent back to the Legislature in the manner that the chairman has proposed this morning and which Mr. Charlton has spoken to.

Mr. Ruston: Actually it is a very far-reaching report and there are some major changes in the procedures of the operation of the place as far as committees are concerned. In fact, I think it is a very far-reaching outlook and ideas on the operations of

committees. So much so, I do not know if we even want to study them any more until this has been taken to the House and discussed.

Mr. Chairman: I agree.

Mr. Ruston: I think we have a variation of types of committees that some of us are in support of. I suppose in first reading over the report, some of us may feel that some of the recommendations in here may not work at all. But I am not sure. I think if you put it all together--

If the whole thing was put into effect at one time, it would no doubt make some people unhappy and cause a few disruptions around. But on the other hand, maybe after a year or two, we may have a lot more interest in this place than what is held now by many of the members.

It is like any report, I guess. The problem is if you take it piecemeal sometimes, you are always piecemealing. I guess that is the only way you can do it in politics because you have to compromise. Sometimes I think it would be awful nice to try a complete, damned new ballgame and see just where we are going for a year or two in this place. However, I guess that probably would be expecting a little too much.

10:20 a.m.

Maybe some are afraid of change in case they lose some of the rights that they now have. That is probably the biggest problem. I guess that would probably be expecting a little too much. It may be that some are afraid of change in case they lose some of the rights they now have. That is probably the biggest problem we would face with the members.

I would certainly have no objections to it's being reported to the House on that basis. I think the chairman is right when he says we could keep going over it and trying to alter one item and another, but I do not think we are really going to accomplish that much. We are still going to have some things in there that are going to have to go to the House, that are going to have to go to all parties to try to get some unanimity. It may be better to present it in its present form and then take it from there at a later date when it has been discussed in the House for an evening or two in the fall or whenever we return.

Actually there are things in it that I think are going to be very difficult to put into effect and probably never will be, but, on the other hand, I think it is worthwhile to bring it in in its present form for discussion by all members of the House.

The only way we can do that is to present a report in the House. The chairman presents it to the House and calls for adjournment of the debate, and then we get into it later. Then we would know it was on the table and that members would have a look at it and discuss it among themselves and in their caucuses. At least we would then have it in an open forum.

It's a very far-reaching document. I agree with a great deal

of it. Having been here for 13 years, naturally I would see a lot of changes to what I have been accustomed to, but when you look back to what we had 13 years ago there were not too many things you could do then. There have been a lot of changes made here in 13 years. I am never one to avoid changes. I like to see the new things tried.

I really think the best thing we could do, as the chairman recommended, is to present it to the Legislature as a report for discussion purposes rather than get into it bit by bit now and try to alter it.

Mr. M. Davidson: Mr. Chairman, I agree with what Mr. Ruston is saying. I think a debate on the report as it is at the present time probably would be beneficial because, after having had that debate, we will have an opportunity to review Hansard and perhaps get some of the suggestions and ideas put forward by members of the Legislature as to where they feel the report, as such, needs alteration. Some may even suggest the kinds of alterations they feel should be made.

Through that kind of a debate and the review of Hansard, it may very well be that we will eventually get to a point where we can draft a report that is acceptable to the majority of members in the Legislative Assembly.

I agree with the comments you made, Mr. Chairman. It has been approximately three years that we have been working on this, trying to get some consensus among the committee members. I think there is consensus on a good number of the recommendations within the report itself, but there are still sections where there are differences.

Probably the only way we are going to have the opportunity to iron out those differences is to debate the report in the Legislature, allowing the members to give their views as to where they see the failures or the strengths in the report. Perhaps from that point we can work towards finalizing and bringing back a report that would be acceptable.

Mr. Rowe: Mr. Chairman, I think the report is very well written, but, as has been said, it just points out the complexity of it. When we talk about committees, the first impression is that it is a very simple thing, but when you really study the matter, as this committee has done and as this report summarizes, it is much more complicated, so I really think it should have further discussion, an airing in the chamber.

Mr. Rotenberg: If you read the recommendation in the report, it says to send it to the Ontario Law Reform Commission. I do not think there will be any disagreement on that. I cannot see why there should be very much debate in the Legislature or anywhere as to what we send to the Law Reform Commission. We send them the basic questions and, as this report says, these are questions they should answer; and there may be others. I cannot see why there should be a problem in the Legislature, or why we have to debate it.

Mr. Chairman: If I might interrupt, I think you are looking at the wrong report. You are looking at the report on witnesses. We are looking at the draft report on committees.

Mr. Rotenberg: I am sorry.

Mr. Chairman: Are there any others who wish to speak to the motion? The motion is that we present to the House our draft report. The purpose of presenting it, clearly, is to focus debate on the matter of committees and to seek advice and consultation from other members; to provide sufficient lead time so that all members and all caucuses and all staff who might be involved, and perhaps even the public at large, have an opportunity to look at a single document as a working paper; and that we will not seek a vote on this matter at an early time, but rather at a later time.

Mr. Rotenberg: Does that mean there will be no work on the report in the committee?

Mr. Chairman: That's right.

Motion agreed to.

Mr. Chairman: I would propose then, since the suggestion was made, that we submit the report to the House in draft form. There is a bit of a printing problem. The chairman is allowed a little latitude in presenting a report and perhaps, in presenting it, I can outline that letter-of-transmittal idea as to the purpose of the exercise.

Normally, we would send this off to a printer. Could I have the permission of the committee to present this report in its draft form? There are a couple of wording alterations that ought to take place in it, but we could present it in that form, then send it to the printer and then circulate it. It is a little unusual, but, for the purpose of getting it tabled this session, do I have your permission to do that?

Mr. Rotenberg: (inaudible)

Mr. Chairman: As opposed to putting a letter of transmittal in the document itself, I will speak to the matter when I present it.

Agreed.

Mr. Chairman: Are there other further matters members wish to raise?

Mr. Charlton: There is one matter, Mr. Chairman, which we discussed the other night. I think you suggested arranging a dinner meeting with the gentleman I had mentioned some months ago for the purposes of a briefing session before we go to Ottawa.

I talked to him on the weekend and he is prepared to meet with the committee and discuss the kinds of things that are happening in Ottawa; not only the things that have already taken place but the things that are being proposed in terms of their

structure there. I think it would be useful for the committee to do precisely that; to sit down with him for an hour or two and get an idea of the kinds of things they have been going through.

It might be useful, as you suggested, since we only have about two weeks of the House left and only two committee meetings left, that we do this as an extra item over dinner some evening.

Mr. Chairman: Then this is what I would propose to the committee. What Mr. Charlton has suggested is that we have a kind of a pre-session briefing. We have a number of details to work out yet. I would like to do this by next Thursday, if possible. If members of the committee agree, could we make it on Thursday from six to eight o'clock downstairs? How many people can find time on their agendas?

Mr. Rotenberg: At night?

Mr. Chairman: Yes. We would do it in the evening from six to eight o'clock just for purposes of convenience. At that time we would present to you the itinerary for Ottawa. We would also invite Mr. Gus MacFarlane to come and give us a little briefing session. I think it might be useful at that time to have the staff run over it because there is some fluctuation in Ottawa these days.

Mr. Rotenberg: Are the dates firm?

Mr. Chairman: I believe so. Can the clerk confirm those dates for me now? July 2, 3 and 4--Wednesday, Thursday and Friday. We have those three days set up. You will get a travelling day there and a travelling day back.

Mr. Mancini: Can we go to the Prime Minister's residence and use the pool?

Mr. Rotenberg: I was assuming you were going to arrange that. He is your buddy.

10:30 a.m.

Mr. Chairman: I think I would want to stay out of that pool. I am told it is infested with barracudas left over from a previous regime.

Mr. Rowe: Were you planning on setting up any discussion sessions on the Wednesday, or is that more of a travelling day?

Mr. Chairman: No. It is a bit awkward because there is a holiday in there. I would prefer that members use the Tuesday as the travelling day, if you require one, so that we can set up three working days in Ottawa.

This is what I am concerned with. If it meets with your concurrence, I would like members to be there from nine until six o'clock and keep that time clear for those three days. Whether we fill that timetable or not, I would like to start out on that basis so that we do not have people arriving Wednesday at noon. If

you need a travelling day, you would use Tuesday and the other one would be Saturday.

Mr. M. Davidson: Tuesday is the holiday.

Mr. Chairman: Yes. Give me your feelings on this, because it will make some difference as to when we set up the meeting.

Mr. M. Davidson: In some areas there are activities taking place that require the attendance of the member.

Mr. Chairman: Would you like us to try to set up a schedule that, for example, starts Wednesday around noon, to give you travelling time Wednesday morning?

Mr. Ruston: Apparently, according to my reservations, the earliest I can get there in the morning is 10 o'clock. Leaving Windsor, then transferring, the earliest I can get in is 10 o'clock.

Mr. Chairman: Okay. We will bear that in mind. What about the Friday?

Mr. Rotenberg: Does the House of Commons rise at noon on Friday, or do they sit Friday afternoons?

Mr. Chairman: They have much the same schedule as ours--till about two on Friday.

Okay, that makes some difference in the way we schedule.

Mr. Rotenberg: I guess those of us who go through Malton in the morning would get to Ottawa by about 10 o'clock.

Mr. Chairman: You can get there at all different hours. Mr. Ruston's problem would be the plane connection from Windsor.

Mr. Rowe: I would not go from Toronto. I would go by train from Cobourg. Don't arrange any travel for me.

Mr. Mancini: Could we get a Ministry of Natural Resources plane?

Mr. Rotenberg: They don't have any.

Mr. Chairman: They don't have any, eh? In the good old days they used to have them.

Is the committee in agreement that we adjourn now and reconvene at six o'clock next Thursday evening? I have to put a caveat on this: We will have to clear timetables. But the intention now is to have a meeting next Thursday from six until eight in the evening. We will give you an itinerary and a timetable, and Mr. MacFarlane will be there. Are we in agreement on that?

Agreed.

Mr. Rotenberg: (inaudible)

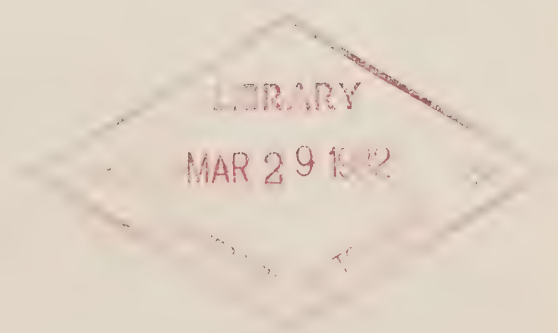
Mr. Chairman: We will tell you where you are going to be and whom you are going to meet. Any further business?

The committee adjourned at 10:36 a.m.

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STANDING COMMITTEE ON PROCEDURAL AFFAIRS
ONTARIO EDUCATIONAL COMMUNICATIONS AUTHORITY
WEDNESDAY, SEPTEMBER 17, 1980
Morning sitting



STANDING COMMITTEE ON PROCEDURAL AFFAIRS

CHAIRMAN: Breaugh, M. (Oshawa NDP)
VICE-CHAIRMAN: Davidson, M. (Cambridge NDP)
Charlton, B. (Hamilton Mountain, NDP)
Kennedy, R.D. (Mississauga South PC)
Mancini, R. (Essex South L)
Rowe, R.D. (Northumberland PC)
Ruston, R.F. (Essex North L)
Sterling, N.W. (Carleton-Grenville PC)

Research Officer: Eichmanis, J.
Clerk: White, G.

Witnesses:

From the Ontario Educational Communications Authority:
Bowers, P., Managing Director
Brookes, D., General Manager of Finance and
Administration
Parr, Dr. J., Chairman
Walker, D., Executive Director

LEGISLATURE OF ONTARIO

STANDING COMMITTEE ON PROCEDURAL AFFAIRS

WEDNESDAY, SEPTEMBER 17, 1980

The committee met at 10:19 a.m. in committee room No. 2.

ONTARIO EDUCATIONAL COMMUNICATIONS AUTHORITY

Mr. Chairman: The meeting will come to order.

We are going to use, throughout the course of this set of hearings at least, the format of asking witnesses to testify under oath. For the benefit of those who are attending these hearings this may strike you as a bit unusual, but the committee has done some work on the status of witnesses before legislative committees. It seems there is a not quite clear answer as to what the exact status is. In order to clarify the situation we are going to use this procedure.

It is a bit of a technicality, and it may pose a little problem here and there because in this committee, as in many others, we have tended to be rather casual about the whole approach. In calling staff up to give us an answer about something else there may be a little difficulty, so we might experience a little awkwardness--it will be mostly on our part--but it is not meant to intimidate or anything.

I am going to ask the clerk of the committee, Graham White, to begin the process each day by swearing in whatever witnesses are available. It might facilitate matters, if you anticipate using one of your staff members extensively to provide the committee with answers, by having him present so we can get this all over with.

J. Parr, sworn.

D. Walker, sworn.

Mr. Chairman: The normal process here would be to ask you, if you care to, to make some opening remarks and then if the committee has some questions we will just kind of flow from there. Mr. Parr, would you like to go ahead?

Dr. Parr: Thank you, Mr. Chairman, members of the committee. I would first like to say how pleased we were that you came to visit us yesterday to see some of the work that is going on and perhaps to get a feel for TVOntario. We appreciate that courtesy.

As you know, our business is education, our process is telecommunications, our market is the people of Ontario--all people of Ontario, all people who wish to learn at home and in institutions. We also have within our market the rest of Canada, the United States, other parts of the world, who may wish to purchase our services.

Our products and services are learning systems. These centre upon, of course, video productions, but it is important, I think, to appreciate at the outset that these are complemented, particularly by print support. While we believe that our video programs are often very different, what makes them distinctly different is the way in which they are contextualized into an overall educational design and part of that design is the print support.

In schools this print material may be teachers' guides, guides for students, supplementary material of various kinds. In the home it may be as simple as a reading list supplied on request. You may be able to see our program Head Start, which is being repeated this Friday. I hope you will not mind my suggesting it; it is a program that has to do with attitudes towards retirement.

Mr. Chairman: That was a cruel and uncalled-for blow.

Dr. Parr: It is one of those programs which would be backed by a minimal amount of print material--reading lists and other sources of information. On the other hand, next year we will be running another academy for which, if people wish to subscribe to it, there will be substantial print material, there will be multiple choice questions, there will be computer-managed responses. It is a highly-developed educational program.

I hope you do not mind my elaborating a little on the print material. I think it is important. I do not know whether you have come across a series called Every Child Is Special. This, when it was broadcast a little while ago, met with an enormous response from people who are concerned about children, particularly children with various kinds of difficulties. The book backs up the programs. It is a guide to the programs. It indicates the way in which the programs may be subsequently developed in discussion groups by questions, by answers. It indicates the other sources of help.

I mention that program because the response to it was not only warming, it was extraordinarily touching as so many people found us seeking help in this very particular problem.

The productions are also supported by utilization workshops wherein staff will meet with groups particularly, school groups and community groups, indicating the ways in which the programs may be used to their very best advantage. Thousands of people take part in these workshops each year.

In passing, I might mention some of the other spinoff products which at present are not terribly important, but which are somewhat engaging. We have three or four phonograph records which are on the commercial market. One which is of increasing importance, which you saw yesterday and which I will not elaborate upon, is teledon.

As you heard yesterday, our channels of distribution are primarily a broadcast network which has nine stations. There is a substantial cable delivery to those people who subscribe to cable.

We go by direct satellite into 46 centres and homes in the north. There is, as you may know, a cable rerun channel in southern Ontario which not only reruns our programs, but enables us to experiment with other programs which may not appear on our major network. Our videotape program service (Vips)--the individual cassettes which can be delivered to schools, colleges, universities, community centres, and libraries--engages about 30,000 tapes sent each year.

Outside Ontario, for services for which we develop revenue in increasing amounts--naturally those people on the borders can pick us up anyway; we can hardly prevent that. The broadcast service by satellite is carried in parts of Manitoba, and that province is discussing an extension of service with us.

You perhaps read recently about the two packages, Galaxy, which is a four-hour-per-day children's package, and Vista, which is a three-hours-weekly package. They are being carried by cable consortia across Canada, soon to be delivered by satellite. We are very pleased about that because not only does it mean that what we believe is good quality programming is reaching children across the country, but the revenues developed will help us make more childrens' programming which is desperately needed.

If I might touch upon the indications of success, and I hope that does not sound arrogant, the surveys of people who are watching us show that at the last time when this was measured, which was February and March of this year, about 1.7 million people watched us during a given week. This has increased a matter of 30 or 40 per cent over two years.

Our programs are used in almost all schools, but some teachers use us, some do not. In the elementary schools about half the teachers use us with some regularity. In the secondary schools, probably 40 per cent of the teachers use us with some regularity. We have to increase those numbers.

Our sales outside Ontario go to most of the provinces and 47 of the states of the union. As you know, the predominant part of our financing comes from two ministry grants, the Ministry of Culture and Recreation and the Ministry of Education, which collectively provide us with a little over 80 per cent of our revenues. The remainder is income that we earn by sales, project financing, and other means, which we can elaborate upon if you wish.

The responsible authorities of our board, which consist of a chairman and 12 directors, are advised by five regional councils which are active in bringing the regions' thoughts to us and in promoting our work among the regions.

10:30 a.m.

We have a long-range planning council and there is a Franco-Ontarian advisory council. All of these respond to the board.

At the working level the senior policy liaison committees

meet frequently and I believe, cordially, with the two ministries that we receive our grants from, the ministries of Education and Culture and Recreation, in the development of our programming and the development of our financial needs and requests. I am sure you know that the Ministry of Education requires that we work within the curriculum guidelines and to date there have been no problems in working with them within those guidelines and yet maintaining a responsibility for final production.

At the governmental level, of course, we report through the Minister of Culture and Recreation. We may be called to appear before the public accounts committee, before your own committee and at estimates before the standing committee on social development, and, of course, the provincial auditor's staff each year reviews our accounts.

Among the issues that are before us, I would like to mention two. One is the extension of the network which was discussed in an informal way yesterday. At present we reach about 85 per cent of the province and it becomes increasingly difficult, of course, to reach the remaining 15 per cent who have an equal right to our services. We appreciate the financial difficulties, but we hope that the extension may continue in the future. Indeed, we realize that it is being considered.

The Franco-Ontarian community hopes that a dedicated network may, in the first instance, be supplied for them in the Ottawa area. That request, too, is before the ministry.

The second issue is the matter of financing. We recognize, under the general constraints which this government and all governments find themselves working within, we must do our best to supplement our income. We will elaborate on this to any extent you wish, but I would like to point out that we do hope within a five-year period the amount of funds we receive by our own efforts, outside the two major government grants, will represent a little in excess of 30 per cent of our total revenues, which will show a substantial increase.

During this time we have every hope and expectation that the two government grants will not be in any way reduced, but will maintain the sorts of increase which comparable agencies and organizations receive.

As you know, this is our 10th anniversary and we reach it at an interesting time because, as you may know, the broadcast-television industry is at present in a most apprehensive and somewhat pessimistic state. There is no need to mention either that the institutional systems of education are also somewhat worried and alarmed about the future.

Against that, we who are involved in educational broadcasting are extraordinarily optimistic. We think we're doing it the right way. We think educational communications of the sort that we are involved with are the sorts of things which allow extensions of education both in the home and in the school, probably bringing these together by the new technology, some of

which you saw yesterday, in a way which is challenging and extraordinarily exciting.

We recognize financial difficulties, but we are really not going to let that stand in the way of providing what we believe is a proper, appropriate and enthusiastic service to the citizens of this province.

Thank you, Mr. Chairman. We would be happy to listen to your comments and try to answer your questions.

Mr. Chairman: You have been given a copy of the report which John prepared and there are some questions there which we would like to get on the record, so we will just go through those, some of which you have touched upon in your initial presentation.

Are you anticipating that you are going to be able to continue the services as you now run them under the present levels of financing, or is there a need to alter the way, the amount, the techniques, that are used?

Dr. Parr: Let me begin to answer that and then, if I may, I would ask David to elaborate.

I think we have to differentiate between what we need, what we could reasonably use, and what we can reasonably expect. If we receive amounts which increase at roughly the inflation rate, and if we succeed in raising money in the way we hope to, then at the end of the five-year period, in terms of the amount of programming that we originate, we will be no worse off but we will not be doing very much more than we currently do, and I would like to do more.

Having said that, there is a second area where I feel that we will particularly need additional funds--two areas, in fact, one of which I have alluded to, extension of service. The second is that the equipment is gradually deteriorating. It was not installed with the intention of fulfilling the increasing network capacity and so I am sure that we will need additional funds for the maintenance and improvement of our facilities.

May I ask David to say more?

Mr. Walker: Inflation in the production industry in Toronto, which is considerable and growing, tends to run close to 20 per cent. The grants tend to, if we accept last year's figure, move at about seven to eight per cent. There have been years when there have been net decreases--the year before that, for example--so there is a very large gap in the acquisition of production services from the Toronto market and from the Ottawa market, which we rely on for French production, that is disturbing.

We have recently reorganized TVOntario in order to make more efficient the internal operations and, although we have a very favourable hourly cost which is about \$26,000 an hour, we hope to depress that still further without affecting quality. That is a moot point because it often takes two years to develop a satisfactory program for curriculum use.

So there are very severe problems and if, in fact, at the end of five years we raise 30 per cent of our budget through our own efforts, and if we depress the production cost, we may be able to create slightly more production. It is estimated that the production budgets at the end of the five-year period may, in real terms, be two per cent higher under those conditions I have just explained than they are now. That is very modest.

Why is it important to do that? It has to do with the integration that Jim Parr discussed with you. If we can do something to make the schools relevant to people who are at home, either out of school or for parents who may have a role to play obviously in guiding their children, there is an extraordinary social benefit, we think, and the officials we deal with in the Ministry of Education think, in that integration. So that constitutes one set of reasons for trying to do more production.

There is another set of reasons and that relates to the fact that by very considerable efforts eight years ago we were able to define something called educational use with rights holders. This is the ability that we have negotiated with them and paid for, to distribute our materials to educational institutions and for other educational uses in homes by any means. That includes all of the new technologies and is one of our reasons for optimism in partnership with those rights holders.

If we are to continue to distribute by all means, we must do so with the highest quality and therefore we come back to the highest technical quality, and the highest pedagogical quality as well.

We come back to Jim's other point about equipment. There is a new generation of equipment beginning to be provided which creates signals that can be manipulated, in other words, transformed by technical processes to all of these new distribution technologies without impairing the quality. Increasingly, we will have to move to that sort of equipment rather than go through a process of quality control on the part of other users which may, in fact, discriminate against us.

10:40 a.m.

There is another reason for increasing production. That relates to being able to return, through these new technologies, the maximum revenues to the people of Ontario for the production of more materials. If we control the educational use, we are then able, in partnership with teachers, to maximize our revenues outside the province.

In connection with what Jim said about explorations being made with Alberta for release of services there, similar negotiations are beginning with Saskatchewan. You mentioned Manitoba but they are beginning with Saskatchewan as well.

Dr. Parr: Yes. You mentioned Alberta.

Mr. Walker: Oh, I am sorry, Saskatchewan. So one sees within Canada a growth of the educational and communications market, and

one certainly experiences it in the United States. It has been estimated that 10 million American children east of the Mississippi are using our reading materials now. That is a very nice number.

Mr. Mancini: TVOntario?

Mr. Walker: Yes. That is a very nice number if you compute it as an annual source of revenue. So we are determined to amplify on those successes if we can.

I do not know if that is satisfactory from your point of view.

Mr. Chairman: Okay, then let me just pursue it a little bit.

On a number of occasions now you have gone into other sources of funding, essentially distributing to other people in the market your material, production, work, print material, or whatever. What size is that now? What kind of revenue do you generate from that? You did not seem to be very specific about what your anticipated hopes would be. What kind of dollars are you talking about?

Mr. Walker: It is between \$3 million and \$4 million. It is about 82 per cent.

Dr. Parr: Sales would be \$1.6 million.

Mr. Walker: It would be \$1.6 million on sales, but the overall generation is \$3 million to \$4 million.

Mr. Chairman: For example, do you have a legitimate expectation that you would double that over a five-year period?

Mr. Walker: It is very close to that and a little more in some of the fields. There are various ways of generating revenue. We can do it through co-producing with others, pre-sale to other agencies, funding where there is a pool of funds from various sources and, in all of those domains, we expect to get 30 per cent of our budgets in five years time from those sources.

Mr. Chairman: Do you have much of an analysis of the market potential that is there? In blunt terms, there must be other people looking at the same market with the same envious eyes. You might find a rather unusual phenomenon evolve over the next three to five-year period where authorities like your own, in different jurisdictions, are all competing like mad to see who can produce and sell the best material around. What is the saturation point for the market?

Mr. Walker: I would like to ask Mr. Bowers to speak to that specifically. I suppose he would have to be sworn in. But, in general, we dominate the Canadian market for school-related materials. At the moment, we are the major production in this country for that. We increasingly co-operate with other provinces, Quebec and Alberta notably, in the production of those materials.

Internationally, we are the largest source of French educational materials. It is possible to predict a very solid future in Canada. It is more difficult to expect the same projection in the French domain internationally because of the nationalistic attitudes that prevail. However, we believe the other provinces increasingly will be interested in French material as well.

In the United States we have a very considerable beach-head and have some optimism. But, if you wish, I would like to ask Mr. Bowers to talk more specifically to that point.

Mr. Chairman: I think that will be agreeable, yes. Would you just step forward to a mike, Mr. Bowers? You can use any one.

Mr. Bowers: Yes.

Mr. Chairman: Perhaps you would sit at the side there, where there is a microphone.

P. Bowers, sworn.

Mr. Chairman: We would like to pursue this question just a bit.

It is our understanding that you have a leg up on the market, dominant in Canada, at least, and established in other jurisdictions. Upon what would you base your expectations that you are going to get a major share of that market? Is there an agreement, formal or otherwise, that certain authorities will produce certain kinds of work? Are you aggressively marketing in that area? Upon what do you base this kind of expectation of increased revenue?

Mr. Bowers: First of all, we have been marketing our programs for the past 10 years. As the financial constraints have become more difficult, particularly over the last five years, we have put increasing efforts on our marketing activities. We have quadrupled our gross sales in the past four years because of this need to seek additional funding. I think we do have a leg up on the market. We do not have any agreements with any other agencies in terms of dividing up the market, or in terms of concentrating on any particular area.

We are fortunate in Ontario in the sense that we are the most advanced ETV agency in Canada. I think we compare with most American jurisdictions. Given the size of Ontario, we have advantages of scale over most other ETV production agencies. A series like Readalong, the reading series, requires a major investment in funds, and it requires a pretty sophisticated production organization to produce in terms of research and in terms of production techniques and that sort of thing. There are not many agencies in place which could produce a series like Readalong. Maybe the Children's Television Workshop in the US which operates at the level of about \$10 million a year to produce Sesame Street alone is probably the only other agency with the skills in place and of the scale to produce a series of that sort.

So we do have a distinct advantage in terms of the market place, both in Canada and in the US. We have been tracking our competitors, which are principally other public educational television agencies in North America, and there are some commercial operations in the States, so that we have a fair feel for their share of the market and where they are going and where we are going.

In the case of children's programming in particular, where there are restrictions on advertising as far as commercial television is concerned, there is not the incentive in the commercial market to produce high quality children's programming. So we have a natural advantage in that area. Through this natural advantage we have a reasonable inventory of children's programs so that we can put together a package like Galaxy which is four hours a day, seven days a week. Possibly the CBC could do that, but I doubt if they could do it because they do not have as much children's programming as we do.

The fact that we are now negotiating with people like PBS in the US and with some of the commercial cable suppliers in the US to export Galaxy to the US indicates that there is a dearth of children's programming of this nature in the US as well.

10:50 a.m.

To come back to your question on our confidence and how do we forecast this growth; first of all, through our competitive position in the traditional markets, but, secondly, in the development of these new markets.

For example, the cable satellite market, where you use the satellite to distribute to cable-head ends is, in effect, a brand-new market for us. While we do not have the experience behind us for that market, because it is a new market, we are quite hopeful, given the advantages we have, we are going to do reasonably well in that market. We are also very actively looking at things like video discs and home cassettes. We are hopeful that we are going to be able to carve out a niche in those markets as well.

In attacking these markets we do not sort of sell on our own. We have agreements with at least three commercial distributors; one in Canada, one in the US and one in Great Britain, for other markets throughout the world. So we try to examine these potential markets very carefully and select the best channels of distribution we can.

I hope I have responded to your question. I would be pleased to elaborate.

Mr. Chairman: The problem of funding is one which dominates our research and because it is such a high-risk business that you are in, with rapid technological change, it would seem that you very quickly are extrapolating yourselves into something which is much more than an education authority for one province. From your comments it would appear to me that you are getting more and more dependent upon a larger share of the market in other

jurisdictions. That puts you quickly into a very competitive, high-risk marketing approach.

Are you fearful at some time either an outside source would say: "Wait a minute; we're not running a new network. We are really trying to run an educational television authority for Ontario and you should restrain yourselves in that regard," or that your internal costs of production in technological change would be such that you would be in a position of really cutting back? Do you feel secure that you have a good grasp on the middle ground, on where to go?

Dr. Parr: Yes, I think we feel secure. The decision to expand the ways in which we can generate additional funds is not made suddenly. As Peter pointed out, the sales growth has been one which has taken place over a number of years. It is not only a question of taking over parts of the market; it is a matter of creating markets in many places.

For example, public broadcasting is now increasingly concerned about the educational component, what it calls "the instructional component" of its programming. So here is an area which now exists. It is not that we are taking it away from somebody else.

You may know--and it really relates also to the second question that appears on the list--our financial situation was also the subject of a review by consultants who have suggested that, among other avenues, the matter of sales was a most significant one. I do not think we would ever allow it, because it would be completely contrary to our purpose, to threaten the activities which are our responsibility for the people of Ontario. The whole purpose of our making more sales is so that we can better serve through our programming to people in Ontario.

Mr. Chairman: It has been suggested on a number of occasions now that the private sector participate in the funding of TVOntario, similar to what is going on at PBS in the States. Is that approach being considered?

Dr. Parr: Yes. It is not only being considered, it is being acted upon. Following the report which, I have to say, did not surprise us in its recommendations, the board made a full consideration of the avenues we might take up for additional funding. These included approaching the private sector in two ways; one is with respect to corporate donations, and the other with respect to specific underwriting of programs which they may be attracted to support financially.

I think we recognize the care which one has to take in that approach. I think we recognize the care that one has to take in that approach. Equally, if I may mention in an aside, one has to take the same kind of care if one is approaching ministries of any government for additional funds.

Mr. Chairman: Absolutely.

Dr. Parr: We do that and have done it in the past and continue to.

Going back to the matter of the private sector, we do have our first commitments for underwriting a program which is about the north and we hope to be able to get additional private commitments to that program so that we may produce it.

Mr. Chairman: Have you, for example, in that regard, gone to the private sector and attempted to identify areas where a communications authority like yours might serve the purpose on health and safety laws, on training of any kind of specific management role or job role that might be there? Have you tried to identify how you could be of service to General Motors or Inco or whoever, and then attempt to program to meet a need which they have identified and then charged them back for providing that service?

Mr. Walker: Have we surveyed the interests of the private sector? Yes. We believe, however, that the educational mandate requires that we design programs to meet educational needs in the province that are identified otherwise than strictly through the private sector.

Therefore, in our approach for corporate funding, we approach people with ideas and pilot programs where we think there is a mutuality of interest rather than producing on commission for the private sector. We believe that specific function is something which should be undertaken by the private production sector and our obligations are to deal with the educational clients of the province through the educational system of the province.

I would like to say in respect to your question about dangers of production increasingly being directed at sales beyond Ontario, I think it is widely recognized in North America that Ontario has an excellent educational system and that the rationales for curriculum guidelines that pertain here and the work done in the development of curriculum is impressive through most of this continent. Therefore, if we devise programs that fit well with Ontario education they are going to do very well elsewhere.

This certainly has been our experience to date, so we do not feel a risk. As long as we concentrate on the Ontario clients we do not feel a risk in putting those materials into distribution elsewhere.

Mr. Chairman: What about the consequences for your operation stemming from kind of a fragmentation of what we now know as the market? Even four or five years ago you used to watch TV on whatever channels you could get and that was it. Now there are cable systems in place, there are new channels being added every day, the CBC is going to a second or a third network, there seems to be almost an explosion of the ways in which you can receive a signal all the way from the cable phenomenon to people who have bought their own little disc for their own little backyard, all kinds of things there.

Sooner or later that has to have an effect on everybody operating within that jurisdiction so that somebody like yourselves, operating a television network for a very specific purpose, with virtually no competition now, may, five years from now, have all kinds of competition. How is that going to affect you and how are you trying to deal with that?

Dr. Parr: We are trying to deal with it by being better than the others, if I may say that arrogantly. I think, Mr. Chairman, that whilst we are very aware of the fragmentation we are perhaps fortunately placed. The matter of competition has been with us for a long while in the Toronto area. People can choose us or one of 34 other channels, so if they are tuning in to us it is because we offer something which is very specific and which is something that they particularly want.

The analogy, I think, between our part of the market and the way in which the newspaper and magazine publishing industry has gone is, perhaps, a reasonable parallel. In so many cases the large general magazines and newspapers have had difficulty in continuing, but those magazines which fulfil the requirements of the specific well-identified market, and do it capably, thrive. We hope that is the kind of category we are going to be in.

11 a.m.

We do not deny that other channels which appear to do similar things are healthy competition. It is no secret that if people who wish to watch us do not find what they want, they will probably go to Channel 17 and, in the Toronto area, to CBC. It is that kind of an audience. But then, as I mentioned in my introductory remarks, there are things which we do which PBS and CBC do not. I think we have to develop those particular abilities so that we maintain our edge on the market.

Mr. Chairman: What about this CBC-2 thing? It strikes me that the possibility is certainly there that a federally-run broadcasting system is going to compete directly with the provincial broadcasting system. That does not seem terribly sensible to me. What is being done to sort it out?

Mr. Walker: What is CBC-2 is one question. As I understand it, there are eight so-called scenarios for the program services of CBC-2. We have seen some general outlines of those. We have no certainty and, I gather, the rest of the industry has no certainty, of exactly what will be offered. But there is no plan with CBC-2, as far as we can determine, for the kind of contextualization that Jim has described for the specific structured-learning opportunity which we believe we provide. So although the cultural audience as a whole might tend to be very interested in CBC-2, we think the people who are interested in following a structured experience will stay with us. The growth in our audience over the past few years seems to demonstrate that throughout what Jim referred to.

The other factor about CBC-2 that must be borne in mind is, presumably, it is a discriminatory service. It will arrive in urban areas at the pleasure of those cable companies which choose

to accept it, and it will not be distributed in rural areas. We believe rural learning is very important, and is perhaps neglected, in Ontario. Because we use broadcast means we are able to serve the rural areas as well as the urban ones.

Mr. Chairman: What about from here on? I see a nice, safe little place for you to run material of an educational nature which has almost a guaranteed audience in a school. But after that, and the part that I see changing, is the educational nature of everybody else. What programs will you be running in the evening? How will you compete with these others you see?

The only problem I have with TVO is I am not terribly sure, although I watch it, why the hell you have Elwy Yost doing movies. It is an opportunity for me to see movies which I want to see, but I am having a little difficulty making the connection there.

In that regard, there certainly is competition from the commercial networks, from PBS, from everybody else who is coming into town. If you are in Wawa they have their own illegal bootleg television station in addition to the satellite service which those of us in the south do not have yet, or at least most of us do not. How are you going to carve that role out? How will TVO change to meet that or to adjust?

Dr. Parr: May I ask a question? You mentioned Saturday Night at the Movies. Will you mention a second example along the same lines?

Mr. Chairman: The Laxer Show.

Dr. Parr: Oh, I see. Fine. Now I have a picture of the question. I think that we have to be careful to recognize that the role of education goes further than what happens in classrooms. I am sure you would agree, Mr. Chairman. We believe that Saturday Night at the Movies is an educational experience.

One of my colleagues told me he recently went to the town he was born and raised in, South Porcupine. He went to see his friends at, where else, but the tavern. He happened to hit in the middle of a conversation about our programs.

Someone was saying, "Do you ever watch Saturday Night at the Movies?" The other fellow said, "No, I do not."

"But," said his friend, "you go to the movies every week. You take your wife and your family. How come you do not watch Saturday Night at the Movies?" He said, "I did not even know it existed."

"Well," said the man, "don't you realize that by watching it you would learn more about how movies are made, you would realize more what you should be looking for, what the context of the thing is, how the director directs, who the actors were, et cetera?" That person was seeing it as an educational experience without any doubt at all, and so do many.

There have been, from time to time, criticisms that it is in

competition with the commercial area. David had the answer to that. He said, "Why should the devil have all the good tunes?"

Mr. Chairman: I notice this year you did a number of specialized programs on health care and a number of other topics which from time to time you have gone into. That is another area where it is not quite clear--it is certainly not designed for the traditional school situation, yet it is attempting to educate or offer an opinion on a larger scale and educate in a slightly different way.

Again, that is a role which traditionally has been played by CBC, CTV, the commercial networks in the States in their own little fashion. However it seems to be a grey area--it is not clearly defined. Are you saying that you think you have a different perspective to offer and that you are prepared to enter into that field and compete with 60 Minutes or whoever is doing that kind of program? Is that the idea?

Dr. Parr: Yes. As we enter those programs, they will be part of an educational design.

You mentioned the specials on children, and I spoke to those earlier. They are quite consciously gone into with backup material, with the support of, in this case, the many agencies that deal with those sorts of social problems. So while the program on the screen may sometimes give you the impression of being similar to something that you see on PBS or on the CBC, the intent and the totality of it, and the way in which the viewer can use it as part of a much greater experience, is very different in our own case.

Mr. Chairman: How much of what you are doing now and in the future will be producing the kind of program that a Peterborough television station would never put together, and then marketing to that station? You do a bit of that now on the cable rerun service, but do you do any selling at all to individual stations out there?

Mr. Bowers: We do sell some programs to some private Canadian broadcast stations. I think, generally speaking, outside the province the attitude of the broadcasters is that they do not want to buy programs that have already had exposure in Ontario. On occasion we have co-produced with private broadcasters and given them the first-run rights on the program. This is one way we in effect reduce the cost of production to ourselves. Frankly we find sometimes the second run gets a better audience than the first run anyway.

To answer your specific question, we have sold some programs generally of topical interest to private broadcasters. We have sold some Polka Dot Door childrens' programming to regional broadcasters in other parts of the province. On occasion, we have placed some of our programs on private stations in Ontario, either to extend our distribution, or because the show had some relevance to a particular region and the broadcaster wanted to broadcast it. Conversely, we have also acquired programs that are produced by stations like London, Ontario, and Hamilton, and have broadcast them on our station.

Mr. Chairman: The problem I am trying to get at here is that one of the things which you apparently do rather well, according to the awards on your wall, is production. You produce things better than most people do in Ontario. One of the things private stations in Ontario are abysmal about is local programming. If they do news, weather and sports, that is about it. If they are really excited about it, you might have a local bowling-for-dollars show. But that is it. Very few of them even attempt anything else, and even if they do, they are not too successful at it.

11:10 a.m.

It strikes me that you might be able to fit that production capacity which you have into an inability of local stations to produce that kind of program. Is there any real reason why it does not happen in Ontario? It happens in other provinces but not here.

Mr. Bowers: I might mention that first of all our shows are normally produced under the educational rights that was mentioned earlier. That means that there can be no commercial sponsorship of the program.

Generally speaking, private broadcasters are looking for programs that can be sponsored and it is only when they get into the public service area that they are at all interested in "noncommercial" shows. So there is a great disincentive for them to even want to acquire our programs until they have filled up the commercial part of their schedule. I think that acts as one major reason.

If I can also venture, from TVO's point of view, given the financial constraints we have, we are production limited. We have to go into a fairly high repeat factor now to simply keep our broadcast schedule intact. We do not have excess production capacity; we have an insufficiency of production resources.

Mr. Walker: Mr. Chairman, if I can add to that, the idea of educational communications is really concerned with access to educational opportunity. Therefore the enterprise is one of finding out what needs to be done in the educational domain in Ontario, devising evaluation means for that to make sure the educational objectives can be measured and delivered and that the programs that result and the learning systems that go around them can be properly scheduled so that production is related to distribution. You want to create something that will make a difference and you want to deliver it at a time that will make a difference.

The growth of children's and family audiences we have experienced is as much a result of determining exactly what the needs are and developing the programs to meet those needs and placing them on the air at the correct time when families and young children can see them, as it is in the production process itself. It is a planning exercise, to some extent a budgeting exercise, and it is a scheduling exercise, an evaluation exercise, a utilization exercise. So we like to make sure that all of those ingredients are in place and therefore we tend naturally to look

at those distribution systems which fit with the other part of that whole idea of education and communications.

Mr. Mancini: Dr. Parr, you will have to forgive some of my questions because I am not too familiar with TVO, and possibly some of the things I might ask you might assume that I would know. I have to say from the outset that I am not familiar at all with TVOntario, possibly one of the reasons being that we get such poor reception in Essex county. We are not too well served at all; I think I could say that honestly without too much contradiction.

I would like to get back to the original question about budgeting and costs. You have stated that TVO is now in its 10th year. I wonder if anyone could inform me of the original budget for TVO--costs for 1970.

Dr. Parr: Mr. Mancini, Mr. Chairman; Don Brookes, general manager of finance, will, I am sure, have that specific information with him.

D. Brookes, sworn.

Mr. Brookes: The original budget I assume that you are referring to would be the one approximately in 1971?

Mr. Mancini: The founding budget.

Mr. Brookes: The founding budget for OECA as a crown corporation would be approximately \$8.5 million to \$9 million per annum. The average growth rate to date is in around 10 to 11 per cent.

Mr. Mancini: So there were some early years as far as TVOntario is concerned when you were receiving well in excess of the inflation rate. In the early 1970s we certainly did not have an inflation rate--

Mr. Brookes: That is correct. In 1973 or 1974 the year-over-year increase was in the nature of 14 per cent.

Mr. Mancini: Do we assume that over a period of 10 years the funding increases have, more or less, when you average the whole 10, kept up with inflation within a point or two? Is that a correct assumption?

Mr. Brookes: Yes. I would tend to agree with that. It is only in the recent two or three years that it has not.

Mr. Mancini: We have this philosophical question which leads to a philosophical problem. Certainly anything that we do or learn that was different from yesterday is educational. I have a great deal of trouble, Dr. Parr, with the presentations that we receive and the representations, not only from TVOntario, but from all groups who are interested in education. They can more or less make a case for anything as far as being of educational value.

When we look at that in the light of TVO, I am awfully sure, with your background in education with the Ministry of Colleges

and Universities and the experts you have now at TVO, you could make a case for anything as far as being educational in merit and of value. So I think it is fruitless for us to get into a discussion which carries over anything longer than a minute about the educational values of things that you do, because I know that you could justify it; and I don't believe that that should be the criterion for the things you do.

Having established, over the period of 10 years, your budget has more or less kept up with inflation, the thing that I am concerned about--and this happens to many agencies, especially agencies created and funded by the state--they have a long-range view of their mandate and the leadership changes, et cetera, and new ideas come in and this revitalization, of course, is good; it keeps everybody up. But I think, in a way, you lose sight of your original mandate, which was to serve the people of Ontario within a certain amount of budget and the best way you can.

Frankly, I couldn't actually understand if the chairman was approving of your expansionary role or if he was disapproving or if he hadn't made up his mind yet. But, frankly, I am very concerned about the expansionary vision you have for TVOntario.

I agree with the chairman completely when he says that we are going to have a communications explosion. As a matter of fact, the explosion started several years ago. I do not know, Dr. Parr, if there is enough Ontario- or Canada-based industry available today to give you the support you need to do what you have in mind, of attacking these other markets. I view obtaining markets as an attack because you have competition there; in the private sector, when they are in trouble, they get very keen and they can really trim their program in a way that state organizations cannot.

In that light I am still not convinced your expansionary vision will give you the benefits that you are after as far as monetary return goes. Then I have to look at the point as well: Why does TVOntario have this expansionary view? Is it because of their educational commitment and serving their mandate; or is it because they want to obtain monetary inflow in order to fulfil other needs that they feel need to be fulfilled?

I believe it is the latter. When you have a staff in excess of 400, a budget in excess of \$20 million, I think you should use those tools to serve the original intent of educational purposes for Ontario.

11:20 a.m.

Maybe in your answer, or reply, or comment, you might be able to help me along, sir, but I have a lot of problems in accepting your expansionary vision for the future. I do not think TVOntario was created for that.

Secondly--maybe I will stop here and await some comment because I have some other comments.

Dr. Parr: Our expansionary vision, if I may be very blunt in my answer, we spend one quarter of a cent for each educational

dollar of public money in this province; it used to be more than that. The proportion of the education dollar which goes to TVOntario has reduced very substantially over the years. Let me repeat that for each dollar of public funds, I am including municipal taxation too, which puts the provincial expenditure of public moneys in education at, I imagine, between \$7 billion to \$8 billion, and we represent one quarter of a cent.

I think you can only expand from one quarter of a cent in the buck. One really cannot go down. Our expansionary vision is not to do with our own self-aggrandizement by any means, but indeed, in order to fulfil that original mandate which was to provide educational services to the people of Ontario. Now if one believes that those educational services must be restricted to the classroom, then I can understand your concerns. I have the greatest respect for professional educators. Some of my best friends are teachers, and I was once one myself. But we must not let them have the exclusive on education for many reasons.

Indeed, if one is about to argue that certain programs we do are not educational--and I appreciate your point of view that it requires a very long debate or dismiss it quickly, so let us dismiss it quickly--I could make an equal case that many of the things that are taught in the classroom would be just as difficult to substantiate. I happen to be traditional.

The kind of movement which you have already alluded to, the communications explosion, is associated very closely with the changes in education, with the fact that it is being increasingly perceived that many other modes must satisfy people's curiosity, and their questioning, and their development. This brings us back, I suppose, to the root of the word, "education," which is to educe, to draw out. We believe that is our mandate as we meet the people of Ontario.

I can only point to the way in which they have responded increasingly to the programs we do as indicating that there is something right about what we are doing. Your fears, I hope, are quite ungrounded about our expanding into other parts of the world, although--and I hope that this analogy is not going to lead us off on the wrong track--I hope that one would not think that the Royal Ontario Museum, the Art Gallery of Ontario and the University of Toronto are any worse for being recognized in the world as a whole.

Rather than damaging our Ontario commitment, we are enhancing it a great deal by, I think, the prestige which we get; more important, by the fact that we are able to thrust the revenues generated into use for Ontario.

Mr. Charlton: Perhaps I could get in a supplementary on this.

Mr. Chairman: If it is short.

Mr. Charlton: Perhaps for Mr. Mancini it would make things a little more clear, if you can tell us that by the expansionary things which you have talked about, both yesterday and today, you are not in fact--and my sense from what I have heard is that you

are not, but make it clear--using Ontario tax dollars to create productions for exclusive sale elsewhere. It seems to me the approach you have laid out for us is that what you are doing is selling educational productions which are produced for the Ontario market in other educational markets.

Dr. Parr: Exactly.

Mr. Charlton: You are not creating a whole new phase of your operation to deal with these markets in other jurisdictions.

Dr. Parr: You are quite correct.

Mr. Mancini: Are you saying that you have done this right from day one?

Dr. Parr: We have sold from very early on, not in very great volumes, but Peter could respond to the extent to which our sales increased.

Mr. Mancini: Would you not consider, Dr. Parr, that it has only been recently that you have put a lot of manpower and time into creating productions to sell elsewhere?

Dr. Parr: No. The manpower which is going into production, as a matter of fact I have to confess, is a little less because our production rate is a little lower than it was two or three years ago. We have, however, put more effort into selling the programs that we have made for Ontario--

Mr. Mancini: That is the point I was making because it brings you income.

Dr. Parr: --because it gives us a net return so we are able to make more programs.

Mr. Mancini: That leads us to the original question of what are you there for.

Dr. Parr: That is right. But if we did not do that we would be making fewer programs.

Mr. Mancini: I hope you understand the point of my question.

Dr. Parr: Surely.

Mr. Mancini: It was stated earlier that it costs \$26,000 per hour for production costs. Is that correct?

Mr. Brookes: Yes, that is correct.

Mr. Mancini: How would that compare with CBC or a private network?

Mr. Brookes: I could not give a precise comparison. I think it would compare favourably with the CBC. In other words, it would be less than the average cost per hour of the CBC.

One of the difficulties in comparing with private networks, we must remember, is the average cost that they may have when you include things like current affairs programming, et cetera, which is a distinctively different mix than we have. So the comparisons are crude at best, but I believe it would compare favourably.

Dr. Parr: I could add that in the report that was made for us about our financial future, a comparison was made with three components of PBS broadcasting. Although I realize that \$26,000 an hour sounds like a lot of money, it is considerably less than their unit costs.

Mr. Walker: If you take commercial dramatic programs in Canada, they tend to cost somewhere in the order of \$100,000 a half hour. If you take the same American case they cost over \$200,000 a half hour.

Mr. Mancini: Is that because of the big salaries?

Mr. Walker: All factors included.

Mr. Mancini: But would it not be more because of the big salaries?

Mr. Walker: Production costs are higher too.

Mr. Mancini: Just to add some information here, I saw a program on an American network, I am sorry to say, but they had a special on why the three private networks in the United States were going so big into news. The big reason was they pay a news broadcaster \$50,000 or \$100,000 a year where they had to pay a star to do some type of show that amount in a month and, therefore, their costs came way down and that is why ABC went into the Nightline to compete with Johnny Carson. They pay Johnny Carson several million dollars a year. They pay Ted Koppel so much but compared to that, he is a poor man.

Mr. Walker: Anybody who is scheduled on the basis of production cost would be in trouble in almost no time because that is not what makes the commercial world revolve.

Mr. Mancini: I was just trying to get a handle on why it was different.

Mr. Walker: News and public affairs have large audiences. Nightline's success is not a function of Ted Koppel's salary but rather the fact that he presents, at some length and often live, materials of interest to an increasingly educated public who demand them and who are tired of Carson, presumably.

Mr. Mancini: I am just repeating what I heard on the American network, that the people who run the networks saw that as a very big plus. I am not saying it is correct or anything else.

Mr. Walker: There are all sorts of perspectives, but a news operation is generally believed to cost somewhere between \$60 million and \$100 million a year in the United States.

Mr. Mancini: I am just repeating information that was put on the screen.

Mr. Chairman: Where did you learn that?

Mr. Mancini: It was CBS Sunday Morning.

Mr. Chairman: Another educational network.

Mr. Mancini: In our researchers' report on page 17, I take it that everyone has a copy, under public assessment of OECA, subsection 4, "that considerable waste exists within the OECA given the large percentage of managerial staff." How would you respond to that, Dr. Parr?

Dr. Parr: I know the article that appeared in. I think it is a confusion about managerial staff and lack of information about what we do. I think it is pretty clear that if you have an educational establishment, and if its technology is one which is in high technology, then the number of people who are involved in activities which might appear to be managerial is going to look rather high, just as if you go to a school or university you are going to see a lot of people who are professional teachers. So in our place you will see a lot of people who are professional educators and professional broadcasters. I think that is really what it meant.

11:30 a.m.

One could put that right, I suppose, by having less sophisticated equipment and having to have lots more people of a technical nature around but I think that would be counterproductive and at the level of designing and producing our programs I do not see any other way of doing it. So I feel that the word "managerial" has been misinterpreted.

Mr. Mancini: Then how does that tie in with page 13 of the researcher's report, in the middle of the page, paragraph number three, where it says, "It is difficult to tell from the authority's annual financial statement just how its expenditures break down"? I mentioned this yesterday in our private committee hearing in camera, that the researcher was having difficulty obtaining a salary breakdown and an expense account breakdown. Is there a particular reason for it being difficult to ascertain those facts?

Dr. Parr: I think Don Brookes can respond to that.

Mr. Brookes: The method of presenting our financial statements is somewhat different, of course, than salaries and wages and transportation and communication. There are reasons for this that we developed at the inception of OECA in 1971, and it was an effort to disclose the financial results of our operations on a basis that was oriented towards the key activities or results that we were trying to achieve.

For instance, program production is shown as a line item, broadcast distribution is another example, in an effort that the

reader would be able to comprehend how we disposed of our resources according to the results for key activities we were attempting to achieve. Also, that the reader would find the statement as far as possible comparable with other statements from private broadcasters and from the CBC, that it would conform in some sense--and it is difficult to get a complete uniformity--to the other broadcasters.

The other reason was really to try to adhere as far as possible to generally accepted accounting principles in the presentation of our financial information. The salary and wage and other items, of course, we do have but do not normally present as the main format for published financial statements.

Mr. Mancini: The reason I asked that question is when we do the estimates of the ministries--of course, you are familiar with that--there are pages which show the salaries for the executives, the minister, the deputy, et cetera, and it is very easy for one to ascertain where the money is being spent. Do you have the authority to go into budget deficit?

Dr. Parr: Yes, with the approval of the board.

Mr. Mancini: And do you do that on occasion or is it standard procedure?

Dr. Parr: It is not standard procedure but there may be occasions when we do it. In fact, this year we started the year planning for a planned deficit which we were confident we would correct as the year went by and I am happy to say we are doing so.

Mr. Mancini: Have you ever had any years where you had a deficit and carried it over to the next year and had to clean it up?

Mr. Brookes: Yes, historically--I cannot remember the precise year but I think it would be approximately \$300,000 in operations one year and in successive years made deliberate attempts to reduce that to zero. I think our overlying philosophy is that in the long run it will be a totally balanced budget but there may be exigencies of production demands in a particular year, the timing, that may cause a deficit in that year, to be balanced by surplus funding in the ensuing years.

Mr. Mancini: I want to get back to my original statement of some time ago about the problems we are experiencing in Windsor and Essex county. We talked about that somewhat when we were visiting your facilities yesterday. Could you outline for the record what problems you are having in sending your signal to Windsor and Essex county?

Dr. Parr: Yes. First I would say that I am most sympathetic to your concern. I spent, myself, eight years at the University of Windsor, so I still have a spot in my heart for Windsor.

Mr. Mancini: You will have to visit us again.

Dr. Parr: Thank you. I think that a more detailed exposition

of what we tried to do could be given by Peter Bowers because we have been active, although not totally successful.

Mr. Bowers: When we originally designed the system to serve Essex county--and I might say, we hired a private consulting engineer to do this design work for us, but we were involved in the whole process--the ideal location for a transmitter to serve Essex county, and particularly Windsor, is about six miles north in the middle of Detroit. The reason I say that is that most people for several years have been accustomed to receiving their signals from Detroit and most people's antennae are pointed towards Detroit. The international rules do not allow you to locate your transmitter on foreign soil, so that ideal solution was not possible.

The next best location would be to build a common tower on the waterfront where the CKLW tower is located, such as has happened subsequently in Toronto with the the CN Tower. However, that involves a major investment and involves getting all the broadcasters together, and that just did not seem to be a likely possibility at the time we were constructing the transmitter. The CBC was also in the process of constructing a transmitter and so they were looking at the same set of problems. That was in 1972, if I remember correctly, when inflation really hit in the broadcast industrial equipment sector. In order to conserve money, we agreed with the CBC that we would co-locate so that we would share the cost of the tower and we would share the cost of the site and the development of the site.

Given the restrictions on building towers in urban areas and airport restrictions, the best site we could find that was available at that time was at McGregor, which is southeast of Windsor.

Mr. Mancini: Yes. It's in my riding. It would be very nice to construct a tower there.

Mr. Bowers: As Dr. Parr has said, we are very aware of the reception difficulties that occur there.

Mr. Mancini: How bad are they? How would you describe it?

Mr. Bowers: I will try to describe it. We did extensive testing two summers ago. We hired about six students and conducted over 2,000 interviews, first of all, to determine if people were aware of TVO service, and, secondly, to determine the extent of difficulty that they had in reception.

It's partly a problem of awareness, that people are accustomed to watching other stations, and partly a problem of reception, which is partly due to the fact that we are on the UHF band. The signal does not travel through buildings like the VHF signal does. So if your set is on the right side of the house and you have an indoor UHF loop antenna, which not many people do, you can often get a good signal. Alternatively, if your TV viewing room is on the opposite side of the house to where our transmitter is or if you are accustomed to picking up signals from Detroit and

your antenna is oriented that way, then you may have to go to an outdoor antenna.

From a technical point of view the signal we are delivering to Essex county is well within the standard parameters in normal broadcasting practice. The difficulty is that many people have their antennae oriented in the other direction, so we are, in effect, trying to come in through the back door and we just do not have much success.

People who have gone to the trouble of putting in a rotor to pick up Global or CTV generally will not have any difficulty; in fact, they will get a much stronger signal from TVO than they would from these other two more distant stations.

If there were cable in Windsor, I am sure that would solve the problem to a large extent, because a lot of people would go to cable. We find on UHF generally we rely much more on cable than VHF stations do for viewers, simply because of the convenience of picking up a signal and the difficulties of propagation of the UHF signal.

When we designed the system we designed it to put a strong signal over Windsor but not to waste any power serving Detroit; so the station is not operating at maximum power. To increase the power of the station it would involve a major investment and the operating costs would be much higher. I think the long-term solution is probably that cable will come to Windsor and that will alleviate a lot of the problem as far as we are concerned.

11:40 a.m.

Mr. Mancini: Concerning that, I have had discussions with the manager of Essex county cable, and they have no intention of going into Windsor within the foreseeable future, and I mean within the next five years. There are several reasons for that which he gave to me; they really cannot compete with the stations there. But they are a private concern and they are interested in profit.

We are a state organization and we are interested in education. With all due respect to your response to the technical problems which I accept whole-heartedly without question, I still do not believe that we are doing enough to present TVOntario to Windsor-Essex county viewers.

This leads me back to my discussion earlier in my questioning. If you are prepared to spend a great deal of money to sell programs outside of Ontario, and I do not care where it may be, then you also have an obligation to ensure that the people of Windsor and Essex county are well served by your present programs. If that is because the market has not yet been prepared to turn their dial to the proper station, I think that is a marketing problem you have to look into.

I do not think it is fair to the people in Windsor and Essex county who are paying taxes to the province to have you go ahead and sell your programs outside of the province and yet say, "Oh,

yes, we have a technical problem in Windsor and Essex county, but we are going to deal with that in the future." As the representative for that area, I do not think that is an acceptable answer to the problem.

That leads me to my next question. You have these policy advisory groups and you have a southwestern Ontario policy advisory group. As I was looking through your annual report, I noticed that the director of education for Essex county, Gabe Seguin, is on one of your advisory groups. Is that correct?

Dr. Parr: (Inaudible)

Mr. Mancini: Yes. Does he not make representation to you about these particular problems in Essex county? How long has this been going on?

Dr. Parr: We are fully aware, I have to say, of the problem in Essex county. I must dispel the belief that if we did not go out and sell programs, we would be able to correct it in Essex county. On the contrary, we would be worse off rather than better in terms of what we are able to give. But that does not deny the fact that the problem in Essex county is one that we would very much like to solve.

I do not know what has been recently done with respect to making the public aware of the fact if they put their antennae in the right place and point them in the right direction they would receive us. Can you elaborate on that, Peter?

Mr. Bowers: The last activity we did was the intensive--

Dr. Parr: Summer of last year?

Mr. Bowers: --campaign where we called on a large number of homes and in fact demonstrated to people how they could pick up the signal using--

Mr. Ruston: Where is your tower located?

Mr. Bowers: In McGregor, I guess 18 miles--

Mr. Walker: The problem as has been pointed out is not essentially technical; it is attitudinal. Indeed the school systems of Essex county are large users of our educational materials. The attitudinal problem is not in the schools, in other words. The attitudinal problem is in the general public. We would certainly appreciate any help that the representatives from that area could give us in spreading the word.

We use advertising to some extent; we use direct mail to some extent. But having conducted those 2,000 interviews, we are fairly confident that it is a question of awareness which will improve over time to some degree, and traditional viewing habits.

As you know very well, Windsor-Essex county are sports towns and they are very interested in the sports coverage from Detroit.

That is one of the attitudes that over time we will hopefully have to deal with.

Mr. Mancini: Can I ask this then? For example, in Toronto there are several stations which are of Canadian orientation, and because of our proximity to Buffalo, we are also able to get the American stations. So I think on a whole the Windsor area people do not get any more stations than say people would in Toronto.

Would you get a lot more? What stations would they be able to get in Toronto?

Mr. Walker: There are over 30 signals available in the Toronto area.

Mr. Mancini: Could you help me along? Would there be more capability to get different stations in Windsor than there would be in--

Mr. Bowers: I think in Windsor you have access to both Detroit and Cleveland, so you get two sets of three basic commercial networks plus PBS. Generally speaking, in Toronto you are watching three commercial stations from Buffalo, plus PBS, plus an independent station from Buffalo.

Mr. Mancini: I do not want to dwell too long on a parochial problem. I just wanted to bring our concern to the chairman's attention. As a state television station I believe you have great responsibility to that region of the province.

One other question that we discussed very shortly yesterday is televising the question period here at Queen's Park. I wonder if you have made any approaches to the Speaker or to any official in the government about maybe being interested in televising question period and what type of response you received, et cetera.

Dr. Parr: Yes, we have discussions about televising the Legislature actually under way. David has been to the more recent ones. Perhaps you could bring us up to date.

Mr. Walker: First of all, we believe that coverage of the Legislature--and I am sure you share in the belief--is the responsibility of the Speaker to determine. We would be very interested were the Speaker to provide an ongoing, continuing feed to all broadcasters of all events in the Legislature. We think there is a high educational value in relaying a good deal of that material.

So we have two roles that we have been playing. One is to provide technical advice to the Speaker so that over a period of time he can determine what kind of technical configuration he might want. That relates to the trends and directions that the Legislature may take over time. It relates to questions I feel diffident about relating to you: how important are committees apt to become over the long run, what kind of technical configuration outside the chamber is appropriate, all of that sort of stuff. I am sure the Speaker will be equipping himself with advice from all

sectors of the broadcasting industry to come to appropriate conclusions.

Currently we have been discussing not only the technical configurations but the long- and short-term implications of some of those. We have suggested the role we might play: we have not had a definitive response. We have had a very good experience of the constitutional debates which we picked up. Our general setting is that whatever unit is responsible for the capturing of what happens in the chamber or in other places in this building should be under the direction of the Speaker, and that we and other broadcasters and cablecasters should be provided with a feed. We would then relay that according to our program schedules and the use that we see it being put to.

We believe the editorial control, in other words, should reside in the Speaker. Therefore, while we are quite willing to provide advice of all kinds, and perhaps perform a broker's role from time to time, we believe that those decisions about when it should be produced and how it should be produced are those of the Speaker.

Mr. Mancini: But you are ready technically to serve the requests of the Speaker?

Mr. Walker: If he requests.

11:50 a.m.

Mr. Chairman: It is 10 minutes to 12. Could I get some direction from the committee? I am assuming that if you want to continue questioning for some period of time we might adjourn and resume at two.

Mr. Kennedy: I will only be about five or 10 minutes, I think.

Mr. Chairman: Okay.

Mr. Kennedy: Dr. Parr, in your opening comments you mentioned two levels of government grants. Could you enlarge on that because this report indicates just provincial grants. What is the other level?

Dr. Parr: There are two possibilities that may give rise to that confusion. We have basic grants from two ministries of the government. One is from the Ministry of Education and the other is from the Ministry of Culture and Recreation. Perhaps that clarifies it.

Mr. Kennedy: Yes, it does.

Dr. Parr: Equally, if we are seeking additional funds for programming over and above those grants we may go to ministries of federal or provincial governments for particular courtesies.

Mr. Kennedy: Have you ever done that?

Dr. Parr: Yes. One example for instance, we are currently producing a program on sport fishing which we are very excited about because, first of all, the sport fishing community cuts through a very wide section of the population. Fishing is not restricted to any particular group of people. It gives us an opportunity of displaying the geography of Ontario, the ecology, the whole natural cycle. That is substantially underwritten by the Ministry of Natural Resources of the Ontario government.

Mr. Kennedy: You mentioned the cost of \$26,000 per hour. Is that actually for broadcasting or is that around the clock divided, I presume, by the number of hours into your budget?

Mr. Walker: That is the average cost.

Mr. Kennedy: Per hour of broadcasting or each 24 hours of the day?

Mr. Brookes: No. That would be the total of the cost to produce divided by the number of hours to produce. So it is the cost to get the product ready to go to air.

Mr. Kennedy: Oh, I see. How does that compare with the other agencies and stations producing programs?

Dr. Parr: I would have to say favourably, and I am under oath. It does compare favourably, but you expect me to say that. The best figures we have show that it compares favourably. I have spoken to others in educational broadcasting who are concerned about costs but who have said, as they discussed this, that their costs are somewhat higher than ours.

Mr. Kennedy: The viewing audience: I notice in your projections here, your goals on page 20 of this document, one of them is to achieve an unduplicated audience of three million viewers by the end of the five-year period. That is up until 1985. That seems to me to be a very ambitious goal. Is it realistic? Can it be achieved?

Dr. Parr: Yes, I think it is realistic. One should always set that kind of target in a way that creates in one an ambitious challenge. The increase in viewing audience over the past two years has been 40 per cent, bringing us to in excess of 1.7 for viewing.

Mr. Kennedy: I am sorry, 40 per cent of what?

Dr. Parr: Over the last two years the increase has been 40 per cent to reach 1.7 million early this year.

Mr. Kennedy: Who does this assessment for you?

Dr. Parr: This is the Bureau of Broadcast Measurement. It is independently done.

Mr. Kennedy: What, then, do you expect the rate of increase to be that will take you through from the 1.7?

Dr. Parr: That is going to be compounded about 15 per cent per year.

Mr. Kennedy: Of your 400 staff what is the complement engaged in marketing?

Dr. Parr: In marketing? How would you like to answer that Don?

Mr. Brookes: Approximately 12.

Mr. Kennedy: What has the increase been over the last two years? What did you start with, for instance? Have you added any recently?

Mr. Bowers: Our most recent addition was to add some people to support our sales in the Canadian market. We really started with one person. Our basic sales force is two people in the US and one person in Canada. The rest are essentially headquarters sales administration people.

Our most recent addition was a second person to help handle the Canadian market because the sales are increasing quite substantially.

Mr. M. Davidson: You have only four (inaudible)

Mr. Bowers: That is correct. We also sell through private distributors as well.

Mr. Kennedy: So they are salesmen engaged in--

Mr. Bowers: They call on all the television stations and cable operators and private broadcasters.

Mr. Kennedy: Boards of education in the US?

Mr. Bowers: Generally speaking, we sell to the PBS station in a region, and the PBS station will then make a deal with the boards of education to help fund the acquisition of the product.

Mr. Kennedy: What is PBS?

Mr. Bowers: I am sorry. That is the Public Broadcasting Service. That is the general designation for educational stations in the US.

Mr. Kennedy: Under your mandate in trying to generate more revenue, is it possible to sell advertising? Or is that specifically barred and should that prohibition continue?

Dr. Parr: We may not advertise. One may, however, within defined limits--I may have to call on somebody else to explain them but perhaps we do not have to. One may acknowledge that the program has been supported.

Mr. Kennedy: By some industry or--

Dr. Parr: Yes. We may mention their name. But one cannot put a commercial on in the sense of advertising that perhaps (inaudible)

Mr. Kennedy: A jingle or a soap commercial.

Dr. Parr: Yes.

Mr. Kennedy: But the CBC does more commercial advertising than for instance the BBC. As I recollect the CBC started out as being a public service without advertising, but of course they got into it and I think (inaudible). Is there any potential for that? Would you be interested? Is the board interested? Is the government definitely opposed to that? Is the possibility (inaudible)?

Dr. Parr: The federal authority does not permit it. If we are licensed as an educational broadcaster, we may not do that.

Mr. Kennedy: Yes, I see. I can understand that. This leads me along to your goals and objectives. Do they involve consultation with or approvals from CRTC? How closely are you involved with CRTC now, or do you just happily move in within your own mandate without reference to them?

Dr. Parr: They do not have to be a party to those goals and objectives as long as they fall within the legal requirements of the CRTC--which they do.

Mr. Kennedy: Just one other question. What is your investment in capital plant?

Mr. Brookes: It is, at cost, approximately \$18 million. The depreciated net value would be about \$11 million.

Mr. Kennedy: Over the 10 years that is all that is--

Mr. Brookes: Yes. The amounts spent over the 10 years would be \$18 million.

Mr. Kennedy: In capital?

Mr. Brookes: Yes.

Mr. Kennedy: I see. One other question.

On page 18 of our researcher's report, in the middle of the page, "Consequently the authority is likely to evolve new program distribution systems that incur high capital costs." Would you comment on that, and if so, is this an ongoing capital cost you see? What is the degree of it?

Dr. Parr: It is a comment we do not agree with, which accounts for our silence. We have all been getting along so very well, but we do not want to say that strongly.

We would like to point out that we are most impressed with the research report. It is a complex organization to grasp in a

short time. Although there are parts of it that we do not agree with, we can only admire it.

Interjection.

Dr. Parr: Now let us answer that question.

12 noon.

Mr. Bowers: If I may take a stab at it, I am sure I will be corrected if I get careless here. There are two major categories of capital. One is our production equipment and the other is our distribution equipment.

First of all, the ratio of our capital equipment to our production cost is fairly low and I do not see it changing. So while I see significant capital investments in terms of new production equipment, particularly because our production equipment has been getting old, I would not call it high. It would still be relatively modest, relative to our total operating cost.

In the area of distribution, our next most likely move is to start using the satellite, Anik C, as a means of distributing the signal, not only to our existing transmitters, but also to individual cable companies and individual homes in the rural and remote parts of northern Ontario.

Using the satellite is a major expense. However, we would lease the channel from Trans-Canada Telephone Systems, who get it from Telesat. We estimate the cost of that channel in the order of \$1 million a year. However, in doing that we will replace the microwave that we are currently leasing from Bell Canada at about \$700,000 a year. So, while it is a major cost, it is really a reasonably economic alternative to what we are currently spending on microwave.

If we get into new forms of distribution like video discs, for example, while the capital cost of producing a disc is high, we would not do the actual manufacturing process ourselves. We would supply the programs to a distributor, so the distributor would be incurring both the risk and the investment cost of producing video discs.

For these reason we do not really feel that we are likely to incur "high" capital cost in the near future.

Mr. Kennedy: Nor would they be ongoing. I suppose as new technology comes along, if there can be any more--and I certainly wouldn't say there couldn't be any--

Just one question of curiosity: How often does the board usually meet?

Dr. Parr: It meets 10 times a year; once a month except for the two summer months. The committees of the board will probably meet on average half a dozen times or eight times a year.

Mr. Chairman: Does the committee wish to adjourn until two o'clock?

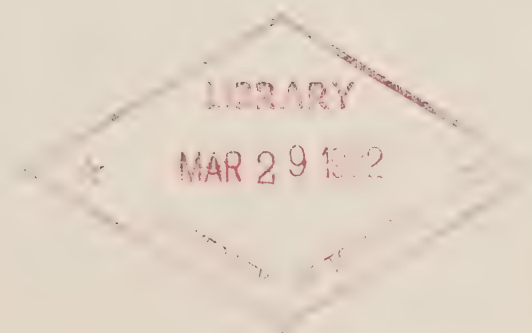
Mr. M. Davidson: I move that we adjourn until two o'clock.

The committee recessed at 12:02 p.m.

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STANDING COMMITTEE ON PROCEDURAL AFFAIRS
ONTARIO EDUCATIONAL COMMUNICATIONS AUTHORITY
WEDNESDAY, SEPTEMBER 17, 1980
Afternoon sitting



STANDING COMMITTEE ON PROCEDURAL AFFAIRS

CHAIRMAN: Breaugh, M. (Oshawa NDP)
VICE-CHAIRMAN: Davidson, M. (Cambridge NDP)
Charlton, B. (Hamilton Mountain, NDP)
Kennedy, R.D. (Mississauga South PC)
Mancini, R. (Essex South L)
Rowe, R.D. (Northumberland PC)
Ruston, R.F. (Essex North L)
Sterling, N.W. (Carleton-Grenville PC)

Research Officer: Eichmanis, J.
Clerk: White, G.

Witnesses:

From the Ontario Educational Communications Authority:
Birkenmayer, S., General Manager, Corporate Relations
Bowers, P., Managing Director
Brookes, D., General Manager of Finance and
Administration
Parr, Dr. J., Chairman
Walker, D., Executive Director

LEGISLATURE OF ONTARIO

STANDING COMMITTEE ON PROCEDURAL AFFAIRS

WEDNESDAY, SEPTEMBER 17, 1980

The committee resumed at 2:09 p.m. in committee room No. 2.

ONTARIO EDUCATIONAL COMMUNICATIONS AUTHORITY
(continued)

Mr. Chairman: We will call the meeting to order.

Mr. Ruston: Mr. Chairman, I have a couple of remarks from notes I made as we went along. I would like a clarification on your sales in the United States on the education part. I do not object if we have a system here that is going well in Ontario and we can sell it to the United States, whether they were government-operated or private. That does not bother me at all. If we can sell it that is fine. I was wondering if you could enlarge a little bit on sales you have made to the United States.

Dr. Parr: Yes. May I ask Peter to do that because he will probably have more specific facts at his disposal.

Mr. Bowers: Okay. The general run of the sales we make in the US will either be to individual educational television stations, or to state networks, or to regional networks of educational stations in the US. Generally speaking, when we sell a series such as Readalong, which consists of up to 90 programs, we will sell the rights for unlimited use within a given year, including the right to take the programs off air in the schools. In addition, we will sell them the support materials which they can then either reproduce themselves or buy in quantity from us.

In some cases, we have sold them what we call a "buy-out" where they will buy three years' rights. In the other cases, if the program is used and is successful, they will then renew the rights in the subsequent years until such time as they feel the program is no longer useful, or they have found something else.

This year we expect to gross about \$800,000 in sales in the US. We also have a deal with a company called Films Incorporated, who take some of our programs and convert them to 16-millimetre film, and they will then sell or rent film prints mainly to educational institutions, primarily colleges, universities and libraries. However, that is a relatively minor contributor to the \$800,000.

Mr. Ruston: Are the people you use in your programming--for instance, in making these programs up--all from Canada, or do you sometimes have to get in people from other countries?

Mr. Walker: They are preponderantly Canadian.

Mr. Ruston: I would say then from that answer--I would put

it in percentage forms in my thinking. I would assume then 75 to 80 per cent of the people would be--

Mr. Walker: Higher than that.

Mr. Ruston: Yes. I see.

In one of your reports on video distribution breakdown, number of programs sold, I noticed in dealing with--let us say secondary schools on the third line down--on April 1974 to March 1975, 2,425; and now on April 1979 to March 1980, 511. Could you explain, rather than go through the rest of them, what that really means? I know what I think it means, but I would rather have your explanation of it.

Mr. Bowers: I am not sure of the exact document you are looking at.

Mr. Ruston: I am sorry. This is the summary of videotape program service. I do not know whose it is.

Mr. Bowers: Yes. I know what it is now.

Mr. Ruston: I assumed it must be from your department.

Mr. Bowers: Yes. I just was not sure which program sales we were talking about. I am pretty certain that is a summary of the sales of videotape programs to schools in Ontario, which we treat differently from sales of our programs outside Ontario.

In the case of Ontario, there is no charge for the program per se, but there is a charge for the cost of the videotape, and there is a charge for the cost of making the copy. We essentially break even on that activity in Ontario.

Why the figure has changed from 2,000 down to 500 on a comparable month over a couple of years I do not know. Generally speaking our sales of videotape have been fairly constant, between 25,000 and 30,000 units per year. This is essentially distribution of programs to schools in Ontario, which is operated on a break-even and no net-return-to-production basis.

Mr. Ruston: I was concerned about whether the use of it has decreased that much.

For instance the Ministry of Education, April 1974 to March 1975, there was 3,046, and from April 1979 to March 1980 the Ministry of Education was down to 1,306. I recall when this was instituted in 1970 some of us had an impression this was educational television so we assumed that the schools and all would be using this to a great extent. Maybe we assumed wrong or maybe we assumed that there was a whole new method of teaching things and it did not come out the way that some of us may have thought it might at that time.

Maybe, too, being from a more or less rural area, and even more rural at that time, my conception of it was that it would bring to the rural people the facilities we lacked--those the big

cities had. I guess that was a misconception I had.

Mr. Brookes: Perhaps I could explain the reason for the decline. There are two reasons. One, in the earlier stages of the nonbroadcast distribution of the Vips program many schools were building up their inventories and libraries of our material. Initially there was a very strong growth, but they eventually reach a point where they are simply acquiring the new material that comes on to the market from us, and it will start to level off. That is one of the major reasons.

Dr. Parr: There is a second reason too. Increasingly the schools are taping off air; that is, they are making their own tapes either at the school or at a media centre operated by the school board which will distribute. We are happy about that. Since our own program is subsidized, the more of that which goes on at the schools or throughout the school board locations, the better it is.

Indeed, we do devote one hour a day which is called the taping period, when the schools know what is going to be broadcast over that hour from publications we make available to them. These are secondary school programs. They use that hour to tape off air and subsequently use those tapes in the school systems.

Mr. M. Davidson: I would like to follow that up if I may. Why then the reverse situation in universities and community colleges where you have had an increase in sales? Is that because you are developing more programs to be fed into that market than you had been doing previously?

Dr. Parr: They were a little reluctant to use the materials we had and we gradually, through conversations with the colleges and universities, persuaded them that the materials we have are of value to them. It has just been a matter of increasing the market through their knowledge of what we had available.

Mr. Ruston: One or two other ones. New equipment was covered this morning, I believe; but with electronics changing as fast as they are I assume there are some different thoughts on whether there is going to be a great need for increased funding due to new equipment that will be required.

But I think that everyone is pretty well aware of the continuing improvement in equipment that becomes available. So looking over the length of time that you have been operating I think we can all assume that there will be a fair amount of new equipment required to maintain even your status quo. That is understandable, I think, in any operations where you are running high-technology equipment. I do not worry so much about that.

You are using these satellites. This will be maybe kind of a silly question--some of this stuff is just a little too far off for some of us fellows who went to school many years ago--but is there any stealing of any of your programs possible under any of this equipment they have now?

2:20 p.m.

Mr. Bowers: Technically, yes; it is possible that some people are "stealing" our programs. Within Ontario we have cleared the unlimited rights for educational use, so, in effect, the right exists for anybody to make educational use of our programs in Ontario. So there is no stealing as far as Ontario is concerned.

It is conceivable that if people in the Northwest Territories, for example, if the satellite signal beams over there, did not have an agreement with us and if we had not cleared the rights with the rights holders for the programs, they would, in effect, be stealing the programs.

What is happening in Manitoba is that the satellite we are using does cover Manitoba and Manitoba has approached us and asked us for permission to evaluate the signal. If they find that it is appropriate to their curriculum, they will then purchase the service outright for Manitoba. Of course, we have to clear the rights with our rights holders for them to make use of it.

So technically there is the potential that somebody might steal our signal, conceivably somebody in the US might steal our signal when we get on a satellite that has a pattern that covers that far south, but at the present time we really have not had any problem in that regard.

Mr. Ruston: Your location at 2180 Yonge Street, how many floors of that building do you actually use for your operation?

Mr. Brookes: We use four and a half floors.

Mr. Ruston: Is that handled by Government Services or does your board actually--

Dr. Parr: The property is rented and the board deals directly with the landlord.

Mr. Ruston: It is not handled through Government Services then, as a government agency?

Dr. Parr: No.

Mr. Charlton: I would like to go back to the area we were dealing with in terms of financing. A couple of things popped into mind this morning when we were talking about the different areas you have looked at.

In recent history government has become involved in a fairly substantial way in commercial advertising. It has been more pronounced in the last couple of years and especially in the last few months than probably in the whole history of Ontario. It has become pretty controversial and has been heavily criticized by the opposition and defended by the government on the grounds that the advertising is done in order to make the public aware of programs and so on.

It seems to me that they are spending a lot of dollars on that advertising without getting, from an educational point of

view, very good results. The ads are 30 or 60 seconds. Perhaps they inform people that a program exists, but in a 30 or 60 second ad they cannot do very much else. As a matter of fact, just recently we had a situation where one of the ministers admitted the advertising they were doing was very ineffective and inept.

We also had a situation two years ago in the social development committee where they were looking at OHIP costs, premiums assistance, and so on. It became very apparent that although there was a whole program of assistance with OHIP premiums, a very large percentage of the people in this province who would be eligible for OHIP assistance were not taking advantage of it, largely because they didn't know about it.

It seems to me that almost every ministry in this province, at one time or another, has been doing that kind of advertising that is purported to inform the public. It may be; I think it has other purposes as well. But it seems to me there is a very significant role for TVOntario to play in terms of providing effective information and education to the public about specific government programs at much less cost to the ministries and the government than commercial advertising.

I am wondering if you have looked at all at that kind of role. For example, we were in the situation this fall, all of us as members, with all kinds of people calling our constituency offices about the seniors' property tax grant and so on. The advertising has been misleading to say the least. It seems to me there is a significant role to be played not only in getting out good information about government programs, but complete information, in-depth information, that kind of thing.

Dr. Parr: I can well appreciate your point, Mr. Charlton. I think though from what you have said, one can perceive the very difficult position we would be placed in if we were to accept the kind of programming which you suggest.

On the one hand, you yourself have stated that it may go beyond the description of a program. If that were the case, we would be in a very difficult position. If, on the other hand, we found ourselves unable to accept what was (inaudible) the program, we would be in a difficult position from another point of view.

The role that we do play with respect to matters of public importance, and have a relationship to the ministries, is of the kind I mentioned this morning, and I might give another example. I mentioned the sport fishing program. This next year is the Year of the Handicapped. We hope very much that we will find support from many ministries which have some involvement with the handicapped, so that we may make a program or programs about the handicapped. These will not offer, however, the kinds of messages of which you speak. But it is because our interest and a ministry's mandate may at some points coincide, quite clearly this will happen with ministries such as Health, Community and Social Services, obviously with Education.

Mr. Charlton: I think I understand what you are saying about the whole area being somewhat touchy if you got into presenting

programs in the way that the government attempts to present them when it advertises. Certainly it would become touchy and you would end up getting accused of politicking in favour of the government.

If, on the other hand, without commenting on the fact that the Ontario government is good to seniors, and commenting on the adequacy of the program, you were to do programming just around the facts of what is available and what is not available, who it does cover, who does it not cover, and how do you go about applying for it, that kind of thing, whether it be with seniors' tax grants or on the availability of assistance with OHIP premiums, or whether it be on the whole occupational health and safety area, or any number of other areas, I do not think that you would get any significant objection from members. In fact, members would then be in the position, if you felt you could provide a function in terms of providing facts to the public in an educational way, of embarrassing the government into using some of the funds it now spends on advertising, which we seriously criticize because of the way it advertises, in a more effective way because of what the public might get out of it.

Mr. Walker: We perceive that our clients are the people who learn, or are interested in learning, in the province. Our research efforts are largely in aid of discovering what those people need and we are very aware of issues like functional literacy, what people need to know in order to be good citizens and function in this society. We approach things that way. We do not consider that our clients are ministries, or corporations, or whatever. So our surveys are of the people who use the services.

2:30 p.m.

We deal with things like family law, for example, in series such as Role Call which is directed at women. We deal with issues of the retirement age in a series that are directed to those groups. Bearing in mind the functional literacy requirement, we try to build some of the things that you are discussing into those programs.

I think that any agency which uses a public resource, the airwaves in this particular instance, obviously in the Canadian setting, has a requirement to distance itself from the government of the day. That is one consideration. However, we are reasonably good at capturing what social needs expressed through various ages and stages of peoples' development in Ontario may require and, therefore, there are congruencies between the delivery of policies and our provision of information about the same area.

Provision of information often involves us in having different points of view expressed and some of those will be pro-government policy at certain times, I suppose, and others against. But we try for a balance.

Mr. Chairman: Could I just pursue that for a minute? You have struck upon an area which is of some interest to me. Do you have a policy book which says what you will do and what you will not do in that regard?

Mr. Walker: Yes, we have a policy book, and policies on controversial programming.

Mr. Chairman: Could we see a copy of that book? Would that be possible?

Mr. Walker: Surely.

Mr. Chairman: In the course of laying out those policies, have you considered the more subtle advertising value? For example, you mentioned this morning you have a nice little program on fly fishing, or something--

Dr. Parr: Sport fishing.

Mr. Chairman: --sport fishing that you are doing in conjunction with the Ministry of Natural Resources. There is a considerable advertising value in having a minister of the crown and his or her ministry associated with something that gives us as much pleasure as sport fishing. That, in a sense, is advertising, perhaps even more effective advertising than some of the more expensive campaigns we have seen.

Do you consider in your policy manual the kind of subtle effect, almost subliminal in spots, of the value of a ministry, for example, sponsoring that kind of program? It is virtually the same attempt at advertising as Carling-O'Keefe when they sponsor a ball tournament. They are not there because they love softball or anything. They are there because it sells beer.

Dr. Parr: Yes, we do. I think perhaps the way in which these matters start shows one significant difference. We are not approached. We approach, in this case, a ministry. Indeed, we have received funds, not only from provincial but, as I mentioned this morning, federal ministries, too, for programs which we have suggested to them.

I think we are aware of the subtleties. Equally, the point of view you express cannot be denied. But I think the way in which the program is handled, and the way in which any mention is made of the source of funds is quite remote from what one would call advertising.

Mr. Chairman: So it is a kind of a matter of tasteful promotion.

Dr. Parr: Yes.

Mr. Chairman: I see. Can you explain to me one thing that does confuse me about TVOntario? Some of your programming, for example, the Laxer Show, the Real Story, or whatever it is called, is something which is a bit unique in your programming in a sense that it is rather current, for the most part; many of the programs are current. How do you define that line?

What I am trying to get at is does someone like Laxer have to go to somebody else who has a big black book and Laxer lays out his ideas, or the story people do, and someone up there says, "You

can do this", or "You cannot do that"? I notice you did a series on medicare which was rather critical in spots or, at least, contained pros and cons, both sides of an argument, and bordered on the political in spots. Certainly it bordered on the controversial and was controversial in other spots. I am interested in the process that you use there. Is it a clearly defined one? Or if you call them names and do it tastefully, is that okay?

Mr. Walker: I am tempted to ask what is the question.

Mr. Ruston: That is understandable.

Mr. Chairman: I tried to do it tastefully. I am not very good at it.

Mr. Walker: There are general policies and they begin with the statement that editorial control is vested in OECA and we must maintain it when we deal with potential plunderers. Therefore, as has been pointed out, we provide them with an indication of what the program will be about, the program having been planned, and we always make sure that there is an educational supervisor for each program, and maintain direction of that program through its production and through its utilization. As policy we take that stance, as we must as required by CRTC, who supervise our licences to use the airways, and we take responsibility for our programming.

Programming taken as a whole is a phrase that is used in the definition of educational programming arrived at by joint agreement of the federal and all provincial governments in respect to the kind of work we do. Therefore, taken as a whole, we strive for a balanced point of view over a period of the broadcast year, if you will, and we do that within various projects.

On the question of current affairs, current affairs are a fundamental part of citizenship education and the responsible individual has to be informed. We have various vehicles for doing that. Certainly The Real Story is one of the more prominent ones, but we run many documentaries, as you are aware, domestically produced and internationally produced as well, in an attempt to present points of view on issues that are hard to make up your mind about and many of them are bound to be controversial.

I think you may have observed, in addition to the health series that you mentioned last year, that Laxer spent a good deal of time, as did others, with the constitutional meetings last week. There will be an upcoming week on Germany prior to the German elections. We are unaware of anyone else giving that attention to Germany but it is the fourth largest economic force in the western world and we believe that it is necessary to do that. Those programs will be controversial too.

What we are trying to bring forward in all of these efforts is, if you wish, another part of functional literacy, try to understand the world you are in, try to form opinions about it, try to move further in your understanding of those opinions so that they are reasonable ones.

I do not know whether that helps you but it is the framework in which we approach things. There is no black book that says, "Thou must not do this or that." There is an instruction to recall that balance must be obtained over the whole schedule and the general manager of programming is very aware of that and exercises his directions to that end.

Mr. Chairman: I was just trying to think of an example while you were replying there. I must admit I do not watch TVOntario all day every day but I do catch a bit of it here and there. I cannot recall a program aired on TVOntario which could really be construed as being critical of this government. Has there ever been one?

Mr. Walker: Which government are you talking about, the provincial government?

Mr. Chairman: Yes.

Mr. Walker: I think that there have been many points of view on the policies of the government of Ontario, critical ones among others.

Mr. Chairman: Could you name a program?

Mr. Walker: We ran a whole week of programming, for instance, on Ontario into the 1980s which dealt with the economic future of the province and there were representatives of every segment of the Ontario society, labour, business, government, on that week's worth of programming. From that kind of representation there were many critical views and many supportive ones.

Mr. Chairman: But you certainly would not view TVOntario as being kind of an outlet for public opinion as we might see in other types of programming that are around; that isn't really the nature of your programming.

2:40 p.m.

Mr. Walker: I would see it as an outlet for public opinion, certainly. It's valueless as broadcasting, it's valueless as education unless it represents real people and their views. It cannot be abstract; it has to be rooted in what they do.

One thing I draw your attention to is the cross-section of guests who appear on our programs. We do not use professional journalists as our guests. We use people who come from the various segments of society and academic life. We use people who have particular knowledge, to the greatest degree possible, rather than interpreters, in an attempt to get at what people really feel.

Mr. Chairman: Consensus in the committee is, we have seen on a number of occasions, with a wide variety of agencies, that the agencies are all in place at the wish of the government. Everyone who directs the agency is appointed by the government in one form or other. The end of the exercise essentially is to promote the government or at least to see that nothing upsets the good ship of state.

In a number of places you could say, "That doesn't make any difference, whether the pesticides advisory committee is...", except that it does. Certainly with something as powerful as the broadcast medium, like TVOntario, with the ability to produce and to distribute thoughts and ideas and perspectives and attitudes, that very quickly becomes a very frightening kind of thing.

For example, in the case of The Jesus Trial, TVOntario attempted to put forward the position that it was, indeed, at arm's length with the government and it had a right to run programs as it saw fit and was not prepared to accept the minister's opinion on that matter.

Are you satisfied that you have that distance from the government that a good broadcast agency needs?

Dr. Parr: Yes.

Mr. Walker: We have never received instructions from the government. In respect to The Jesus Trial, though there were discussions obviously in the House, we have never received instructions in regard to that. So, yes, we are quite proud of the government and quite proud of ourselves that that is the case.

Mr. Chairman: So these people like me saying--I guess it is not a bad position--if you let me establish the name of the game, build the field, and appoint all the players, that's all the control I need.

Dr. Parr: I do not think it can be summarized in that way.

Mr. Charlton: Getting back more specifically to the area I was talking about, it seems to me that is the kind of thing you should keep in mind and at least have a look at what the government is doing in commercial advertising. At least in part, it is going to indicate a public concern that the government feels out there and it may very well--not in all instances--indicate areas where there is a need for public information, public understanding, and an area where you could far better provide fact and detail that no commercial advertising can.

Just a couple of suggestions pop to mind: We have these ads right now from the Ministry of Energy in terms of "preserve it and conserve it." It seems to me a series of programs on home insulation--the availability, the effectiveness, the cost, that kind of thing--would be particularly useful in terms of public education. It seems to me there is a whole area of debate around energy itself.

Without getting overly political--it would be somewhat more controversial though--there is a whole area of discussion around alternative energy and the arguments pro and con about its availability, its stage of development, and so on. Programming in that area could be particularly useful in terms of helping the public understand what the debate that goes on is really all about and what the prospects are.

Dr. Parr: Such a series relating to the public debate on energy has happened. This is not to say there should not be more, but it was covered when--you can be more specific.

Mr. Walker: About a year ago we did, again, a special where we stripped programming across a large period of time called Energy-Energy, which was done with the board of commissions hearings, and represented again a large cross-section of people commenting on just the kind of things that you are talking about, and documentaries amplifying what they had to say.

It is not to disagree with you really, but to suggest that in the client orientation that we have it is a different approach. There are also very powerful examples from other countries in front of us when we consider the issue that you are really discussing.

For example, if you talk to educational broadcasters in the Philippines, or if you talk to educational broadcasters in Venezuela, they say that there is a great deal of difficulty in getting people to pay attention to their programs because they are stamped with the imprimatur of the government, and there is a real credibility problem. Farmers will not accept sound agricultural advice simply because it has that imprimatur.

We are very anxious that we involve all possible sources of information when we purvey information, and do not really do more than to provide people with the opportunity to make up their own minds, which is fundamental to the educational process.

Mr. Charlton: If I could just interrupt for a second, that is, I suppose, precisely the approach I was getting at. Again in the energy field, you take an argument that develops publicly between two parties, whether it is between two opposition parties or one opposition party and the government, or whatever the case happens to be about whether methanol is a feasible approach to take to an energy future. You have one half of the argument saying, "Yes, it is," and the other half of the argument saying, "No, it is not." Then that argument just goes on for six years until something changes that allows it to happen, or whatever in a slightly controversial approach perhaps to that political argument, a program or a series of programs on things that have been done in that area to bring the public up-to-date. Because the print media and the news media do not do it very well in specific terms.

Mr. Walker: Science programs like Vista certainly have had a good deal to do with the specifics of energy use and the way in which you describe, and for instance in the biomass side of that, have talked about the development of particularly Ontario and Canadian products. For instance, The Tree That Grew Up was one that occurs to me, the title of one program from that series, where we talked about the development, breeding, and harvesting of a new type of tree which had qualities that could be fed into that particular stream of energy production, or could be a substitute for less efficient types of production elsewhere.

We do do those thing, but in a context which is perhaps

broader than the one that you are describing.

Mr. Chairman: I have a few things I would like to clear up a little bit. There have been a number of problems raised about where your signal reaches. We discussed it very briefly yesterday at your facilities. Would you go over again why there are certain parts of the province, particularly in the north, in the east and in the south-west that do not receive a signal now, or do not get a good quality signal? What will happen in the foreseeable future to correct that situation?

Dr. Parr: The total plan for the coverage of the entire province is only part way completed. The last extensions of service were made in 1977. I think that while we are hopeful the next phase will happen in the near future, quite clearly I do not think we are going to expect the entire province to receive our signal over the next year or two.

It is a financial problem. The capital funds have not been made available for the continuation of the extension of service. But, hopefully, that will gradually be rectified.

2:50 p.m.

Mr. Chairman: What plans do you have in place to rectify that? You obviously have costed the procedure and planned it over a set period of time. What kind of money are you asking for? What kind of a time period could one legitimately expect that you would have total coverage of the province?

Dr. Parr: The total cost, Peter, if we were to pretty well completely cover the province is, what?

Mr. Bowers: It is \$27 million.

Mr. Chairman: If you had that kind of budget allocation given to you how long would it technically take you to provide that coverage?

Mr. Bowers: I do not think we looked at what would be the absolute maximum because we did not think it was realistic to get that much money that quickly. However, I would estimate that the fastest we could implement that would be over a total of five years.

Mr. Chairman: Would you give us an estimation of what net effect it has on your entire operation not to cover the province? In other words, you must be reasonably satisfied--I do not hear the yelling and screaming I would anticipate if you were not--that you are hitting the bulk of the audience. I assume there are some finishing touches to be put on around the edges but, by and large, you are hitting the vast percentage of the population.

What percentage of the population do you hit? What are your concerns about those you do not hit?

Dr. Parr: About 85 per cent of the population can receive our signal. The remaining 15 per cent are no less important than

the 85 per cent who do get us. Of course, we are anxious to reach them. I think, at the same time, one has to appreciate the practical difficulties when one is looking at the extremely remote areas, but we believe the satellite technology is the appropriate answer for it.

In very rough terms, what happens is this: if we were to have the funds to install the next, say, three transmitters, then I believe at this point, depending upon the way prices are, it becomes economical to move to satellite distribution. Then that opens up better prospects for more remote communities, of course.

Mr. M. Davidson: I have a supplementary: I can readily agree, as I think most of the committee members could, that there are areas of this province where, because of the distance factor, it takes a little more technology to reach those areas. Can you explain, though, why areas such as Peterborough, Belleville and Kingston, if our research is accurate, are not touched upon by TVOntario? Why is it that the feed is not going to these areas?

Mr. Bowers: When we built the last three stations--which were Sudbury, Thunder Bay and Sault Ste. Marie--they were the first year of what we call phase three of our extension of service. In that extension of service we had a total of 15 stations identified, which included the locations that you just mentioned in southeastern Ontario.

Phase three was a victim of the constraint policy of the government. In fact, phase three was stopped entirely--then we were allowed to complete the first round of that, which was those three stations. So certainly we have had those locations on our list of areas where we would like to build stations. However, we have never received the approval of the government to proceed with them.

Mr. M. Davidson: Further to that, if I may, you mentioned a figure that, to my understanding, is the plan you have before the minister at the present time. It is a total of \$27 million in terms of reaching out to these communities. That is in today's dollars, I would take it.

Mr. Bowers: Yes, that is right.

Mr. M. Davidson: Could you project for the committee, given the increase in capital costs and the rate they have been going over the past five years, if this program was delayed five years what the cost may be at that time?

Mr. Bowers: I would rather not. Seriously, part of the difficulty is that it is a fairly elaborate process to produce these estimates. Unfortunately the estimates go stale after about a year or two because the available frequencies change and access to towers change and, of course, land costs are going all over the place and it is a very difficult process.

The \$27 million figure is in effect a snapshot at a point in time. The problem with trying to project delays is that you introduce so many variables in. I am pretty confident that the

price is going to go up but it is an exercise in futility to try to pin everything down. Clearly the cost is going to go up but it is a very difficult process.

Mr. M. Davidson: Would it be fair to say that it could very well be half again?

Mr. Walker: We are experiencing say 10 per cent inflation. Certainly in five years that adds up to 50 per cent.

Dr. Parr: More than that, as a matter of fact, when you compound it.

Mr. M. Davidson: I was going to throw out a figure of \$50 million but I thought that might shatter some of these people.

Mr. Ruston: On the same subject, Mr. Chairman, I suppose that is one of the problems I have and I am sure Mr. Mancini too. We are from Essex county where reception is not too good and apparently the usage is very low even by those who can get it. I recall watching one or two programs on TVOntario and, if I remember correctly, I was demoted to the bedroom to watch it on the set in there and not in the proper den or wherever we have our other television. That is the problem that we have and it is the problem we have in everything in an area like Essex county and the city of Windsor where we have such access to American TV.

I can see your problem in getting into there and getting the people to use it. I know there is a problem. I suppose the first thing would have to be a better signal but I know it would take--and I think Mr. Mancini would agree with me--a fair amount of selling to get it going properly. When you are talking about \$25 million or \$30 million one is reluctant to say to spend \$5 million and put in proper signalling when it is public funds.

I find myself in a bit of a bind on this. I do not think it fair that 80 per cent of the people in Ontario should have it and not the other 20. Yet when I hear a figure of possibly \$30 million to enlarge it one is reluctant to think of the amount of money that means in raising taxes.

I have a terrible perception of CBC. I think there could be nothing worse than being abandoned on an island with only CBC television. I think I would rather die on one than have to put up with that. Maybe that is just because we have access to the American TV and we are American-oriented too much.

Mr. Chairman: I cannot think of anything worse than being isolated on an island with nothing but American TV to watch.

Mr. Ruston: There you are, that is the difference.

Mr. Chairman: After all, Laverne and Shirley does have its limits.

Mr. Ruston: That is a matter of choice, I guess--what one gets used to and what is available. When you have about six different stations available within 40 or 50 miles or within easy

reach of a very small aerial just 20 feet high it is very easy to get used to it.

Mr. Rowe: Mr. Chairman, talking about the distribution of the programming, we get it on our cable TV in Cobourg, which is not too far from Belleville and Kingston. Can they not get channel 19 down there? Is that not rebroadcast down there somehow?

Dr. Parr: The Windsor area has no cable.

Mr. Bowers: There is one exception and that is that the Kingston cable company does have the TVOntario feed so that people in Kingston on the cable system have access to it.

Mr. Rowe: That is what we have.

Mr. Chairman: In this 15 per cent of the population do you try to compensate, given that you cannot have a live broadcast signal, by sending tapes? Do you have any statistics on that, whether in your remote communities they are better users of video tapes?

Dr. Parr: Particularly before we reached those communities by the current satellite program, tapes were sent to them for distribution. But they were the first ones that we put dishes on because it is a more economical way of getting the signal there. I think at present we are not sending tapes, are we?

Mr. Bowers: That is right. All cable systems in Ontario now either receive us off-air or off the satellite.

Mr. M. Davidson: How about areas, for example, like Alexandria? Would they pick it up off the Ottawa system?

Mr. Bowers: Yes.

3 p.m.

Mr. Chairman: We have discussed on a couple of occasions, and we did yesterday as well, the matter of replacing equipment and the capital costs that are involved. I don't recall seeing a number on that.

Dr. Parr: No, we haven't presented a number. Once again, perhaps Peter is shy in presenting a number there, but we could try.

Mr. Bowers: Our total capital plan, as Don Brookes indicated, is something in the order of \$18 million. That is over 10 years. The active value of our capital plan is something in the order of \$9 million, I think, at this point.

With the financial constraints that we have been under in the last three or four years we have diverted money, that we would normally apply to capital replacement, to production, simply because the equipment looked like it was good for a little while longer. So we have not been replacing capital at the level we should be replacing it. I would say that the rate we should be

replacing capital is something in the order of between half a million and a million dollars a year on average over the long haul. Perhaps that would give you an idea of what is ahead of us. And we have been deferring some of that capital in the last two or three years.

Mr. Chairman: It is my understanding that your board is now debating whether you would do an overall replacement of equipment as opposed to a phasing in over the 10-year period. What are the pros and cons of that?

Mr. Walker: The diversion of resources that Peter has referred to is not as reactive as it might seem because of substantial technical changes that are about to arrive in the equipment field and some awareness that the first generation of that equipment will have the usual first-generation problems.

We have a number of studies that we are starting on the requirements of master control, the requirements of studio equipment, in the awareness of those changes and the likely timing of those introductions. So our ability to be more specific will have to come when those studies are completed, and depending upon when the industry gets its delivery of reasonable equipment.

We are not particularly interested in experimenting with equipment which is not thoroughly tested when it comes to the production of materials that must be issued into the existing distribution system in Ontario and beyond. So we are a little cautious about that.

It would have been nice to have accumulated depreciation funds over this period, rather than having to divert them into programming. But we believe that was our primary obligation at that time.

Dr. Parr: May I revert just for a moment to the Windsor situation which we appreciate and can contrast it. I wonder if we might ask Sandra Birkenmayer to speak to this, if I may detain you for just one more minute.

There are areas of the province where the audience viewing is extraordinarily intensive. For instance, I believe in Thunder Bay about 30 per cent of the citizenry will be tuned to our programming. Interesting things have happened in remote areas; one of which springs to mind is Armstrong. Could you describe that situation?

This is Sandra Birkenmayer, general manager of the corporate division.

S. Birkenmayer, sworn.

Mrs. Birkenmayer: What has happened in several communities in the north as a result of the Anik satellite program--there are three areas particularly concerned here; one is Armstrong, one is Nakina, and the other is Dryden. When signal became available, in Armstrong we had proposed to put the dish at an individual home. There was no distribution system in Armstrong. The community

reactivated a local rebroadcast service, and, in fact, went to the commission and asked for permission to become in a sense a rebroadcast facility of TVOntario. That was done completely with community funds. They are now bringing in an extremely good signal.

What we thought was amusing was that the CBC had ignored Armstrong for some time and lo and behold two months after they were receiving a very good TVOntario signal, the accelerated coverage plan of the CBC suddenly got a new transmitter for Armstrong. So we are now getting CBC and TVOntario.

But Nakina have applied and are now an affiliate of TVOntario, and Dryden are in the midst of that process as well. So it has in fact activated a great deal of community interest and community development to the extent that the Ministry of Northern Affairs have just made a decision that they will be prepared to match community financing if we get an extension, which is now a pilot project; if we extend it for another two years until we can get on Anik C. There is a great deal that is happening in that area.

Mr. Chairman: Are there any other questions on this?

Mr. Mancini: (Inaudible) programming. Are you going to go back to your headquarters (inaudible)?

Dr. Parr: Let me finish. The first thing is to encourage the Windsor people to watch us, the signals. If they care to tune into us and turn their antenna around, they can get us all right. Sure, it is our responsibility to encourage them to do that. By utilization, people have spent a lot of time in the Windsor area. As David mentioned, the school systems in Windsor use us very intensively. They are great users of us. If the citizenry want us, we have got to put our wares more prominently before them. We will do that, and we will do it through our regional councils as well, and I hope with your help.

Mr. Mancini: I cannot argue with that.

Dr. Parr: You could.

Mr. Mancini: You are a hard man (inaudible) Dr. Parr.

Mr. Chairman: On a rather different matter--

Mr. Ruston: They learn fast on (inaudible) politicians.

Mr. Mancini: After one morning they become really slippery.

Mr. M. Davidson: If they pay all expenses, Remo, you could be a voluntary salesman in that--

Mr. Mancini: I am telling you, I can barely keep up with my constituency right now.

Mr. Chairman: That is what I heard.

Mr. Mancini: If I could get a contract like Jim Laxer--

Mr. Chairman: If you had that kind of talent, you could probably get that kind of a contract.

Mr. Ruston: What are his qualifications to get the job?

Mr. Mancini: What would a man like that be paid to do the program he does?

Dr. Parr: Off hand I do not know.

Mr. Walker: That is really a matter between the individual and ourselves as a negotiation.

An hon. member: Contract performance?

Mr. D. Walker: It is comparable with university teaching, which is where he has come from.

Mr. Mancini: Could you provide for the committee, because you do use a set of accounting procedures which are somewhat different from other government agencies, and one of our little bugbears has been that it is often difficult for the committee to get some concept of how an agency functions and how it takes care of its books so that you get a realistic idea of their own financial picture. Could you provide us with the rationale for a different accounting procedure from other government agencies?

Mr. Brookes: The rationale--I think I went over the main reasons before. It is primarily to display our operating results financially. We deal in a format that relates to the key results areas that we would work on. In other words, for instance, program production, if I could centre in on that, and by way of example explain how I believe other forms of display might not be as useful.

In the year that we have just finished in 1980, we received less government grants than we had in the year before, primarily through a reduction from the Ministry of Education. Our salaries and wages, by way of example, account for about 53 per cent of our total expenditures.

I think that if we had displayed in our financial statements salaries and wages, and the different line items, the effect of that cut perhaps would not be as clearly understandable. There would be a small reduction in salaries and wages and some other items. But I think when you see the financial statements for the year ended 1980, which are just being prepared for release, one will clearly see directly the impact of that kind of reduction on program production which went down from about \$13.5 million to \$12.9 million.

Also, perhaps another area that is of concern in terms of evaluating the productivity of an organization would be an item such as administration. Again, by way of example there, I think we have made deliberate efforts in the current budget year to contain the increases of administrative costs to something of about four points below inflation in the hope we would be able to achieve

that, and that will be apparent in next year-end's financial statement.

3:10 p.m.

We believe that this kind of presentation allows the reader to centre in on certain issues like that in the nature of expenditures and their impact on our ability to deliver certain types of output more effectively than line item, if I can call it that, displays. So that was the basic intent behind it. I do not think that we developed this form of presentation willingly in the sense of just let us be different. There was that kind of rationale behind it.

Mr. Chairman: That is a rational argument. How are others to look at your financial setup? For example, if the members of this committee chose to, they could say: "We really think that TVOntario is doing a great job. There is 15 per cent of the population which does not now receive their signal directly and we urge the government to put an additional amount of \$27 million to boot, and the purpose of that is to see that TVOntario covers the province of Ontario. More than that, we want you to kick in another \$18 million for capital costs."

That might be something the committee could do, but the committee is not terribly clear now as to precisely how that money would be spent, precisely how you would go about that. We have your concept, according to your values, that the money is well spent. That does not exactly mesh with every other agency in operation. It then becomes very difficult for a committee to make a recommendation, for example, that large amounts of capital be infused into an agency. How do we reconcile that problem?

Mr. Brookes: There are two parts to the answer. The first is that in the previous network expansion phases, phase two and three, we did disclose the total capital expenditure site by site in a supplementary page. I believe the reports that you have available do not have it because of the conclusion of that. If you looked at one the year before you would see it in some considerable detail.

I would suggest that, in itself, is inadequate to this extent: that I do not think any financial statement, as such, can be totally adequate for the economic decisions that have to be made around extension of network or, indeed, many other economic decisions. They are, after all, a summary no matter which way they are placed, and other statistical information, it would seem to me, would be extremely pertinent to making cost benefit decisions with respect to extension of network or, indeed, internal capital expenditures that we carry out ourselves.

So we feel that this goes about as far as we can take a financial statement, but do recognize that any statement does have limitations in terms of key decisions that have to be made, and supplementary statistical information often is required. In fact, most of the time it is required to make a valid decision.

Mr. Chairman: Let me pursue a slightly different line then.

I believe one of you said this morning something like approximately half of the teachers in classrooms in elementary school make use of TVOntario, and about 40 per cent of the secondary school teachers make use of your programming. Has anyone ever done any study of any kind which indicates an effect of any kind upon the educational system in either a financial or qualitative sense of your operation?

Dr. Parr: Yes. I am not trying to dodge the question. It is very difficult in any circumstance to measure how effective any teaching program is. Perhaps it is, because we are newer and different, we are expected to do it whereas, if I may say so, the average teacher in front of a class is not.

However, yes, the effectiveness of our programs is evaluated. There is nothing secret about those reports. There are continuous studies done on the effectiveness of the programs which reach the classroom.

Mr. Chairman: Let me pursue this line just a little more then. I recall at the advent of TVOntario there were those, especially in the teaching profession, who resisted somewhat initially the use of television in the classroom, mostly on the fear that someone down here was planning to put massive amounts of children in a large room with a television set and there would be teachers unemployed all over the place. That has not exactly transpired.

I am not aware of anyone who has even attempted the task of measuring in any way--except the ones that I have seen do measure whether it was a good program, well received, had an effect on the kids, whatever--I am not aware that anyone can point to a study which indicates in any way, shape or form the children in Ontario are better readers, have any better control of language or mathematics or anything else, that you have replaced X number of teaching hours in anybody's school system.

Has anyone ever done anything like that?

Dr. Parr: The last part about replacing teachers, we have not and I do not think we would. The effectiveness of the programs in, say, reading or mathematical skills, is measured at all times in the development of the program and subsequently when the program is made available to the schools.

I think one has to say at the outset that none of those measurements are infallible, but to the extent that it is possible to measure whether our concepts have been better learned as a result of the program, the last example that I remember reading, and I can ask David to respond to others, was a program called MathMakers.

First of all, in the development of the program a most important aspect is to make sure that children will watch it, because if they are not going to watch it, it is not going to do any good. So that is evaluated, the extent to which they find it an attractive and gripping program and we have a very well developed means of doing that.

Having done that, then there have to be test groups to whom the program is available compared to those who have not had the program to see if the concepts have been better learned, and indeed the reports will measure the extent to which the concepts are better learned. This is standard practice with the programs that go into the schools.

If you ask the macroscopic question, "Do children in Ontario read better than children in some other province?", I have not got an answer to that.

Mr. Chairman: Let me pursue it just a bit more because it goes rather directly to why we would have an institution called TVOntario and why we would be supportive of spending large amounts of taxpayers' dollars to keep this thing in operation.

I want to say before I start that I would probably support TVOntario if it had no effect at all on any kid in the whole province. I think it is a supportable notion from a cultural idea, from a number of other aspects, but the purpose of the exercise--and it is called an educational communications authority, and when it was first broached the great promise was that there would be substantial gains, that you would be able to measure those gains, that you would be able to do things in classrooms around this province that were not possible at that time.

I am aware that we can point to awards that show the program was good; we can certainly find a number of studies which indicate that your programming had an effect on children in the sense that they liked it and they watched it; it grabbed them; it motivated them; it did a number of things, but if it is an educational television authority--and that is the purpose of it being--then surely after 10 years and how many cash dollars I do not really have at my fingertips, but a lot of money, we should now be able to say definitively that we have done a reading program which has increased the reading skills, all of which are measurable, in the areas in which we have done it.

Dr. Parr: I think I said that. I said I do not know on the macroscopic basis, although one can add up the components. Indeed, as I mentioned with the math program, so with the reading program, the effects of the program are measured at the outset and it has shown that those people who have the use of the program do learn to read better.

It is getting increasingly difficult, by the way, to make comparisons with other provinces because they are all now using the programs too, which is very heartening. David, you were going to mention a point.

Mr. Walker: I think that the committee might find interesting, if they have not had access to it, the report made by the Ontario Association of Education Administrative Officials which was an independent study of our activities from the educational perspective, which goes into some of these dimensions. I think along the same line, admitting that the measurements of educational effectiveness are a problematic area, what we try to

do is to make sure that the formative research that goes into the preparation of the program involves as many appropriate dimensions as possible, eye movement research, intellectual comprehension through test groups and control groups, all of that sort of thing. Then in the summative research that is done on use, we try to see how many teachers actually use; in the case of the reading programs, about five out of seven Ontario teachers of reading use the programs. We have to assume that those are gifted mature teachers who know that they are getting results because they continue to use them.

3:20 p.m.

On the general issue of what the attitude of the teaching profession was at the beginning of TVOntario, and what its attitude is now, we have to take, as a measure, the fact that the Ontario Teachers' Federation distributes our schedules to the schools. That is the vehicle through which our schools receive their information. I am unaware of any other jurisdiction where that happens.

On the question of measuring the overall effect of these programs in the province, the decision was made early not to have educational television mandatory in the schools. It was to be used as a supplement or complement to the curriculum activities of the schools. This is one reason our programs do not appear in Circular 14, for example, though the guidelines for individual subjects published by the ministry will always include reference to the programming.

Many other jurisdictions, particularly in the United States, increasingly in some parts of western Canada, require materials to be used in the schools. That is not the case here. The choice is made by the teacher. As a matter of fact, we appreciate that very much. We believe it is a protection for students that the teacher makes the choice of whether to use this medium or not. We can only endorse those original decisions. But they do result in the quotation of statistics of the kind that you have heard about teacher use. It is not compulsory; it is their choice.

Mr. Chairman: Maybe the problem I am getting at is a bit academic for this discussion, but in my reading of that literature, as you go through the process from the start to the child receiving it, one could be very sure of your research in terms of preparation of the program, which is usually quite good, one can be reasonably accurate about how many teachers are actually using it, but it is at that point that it falls very rapidly off the scale of being any kind of an academic exercise in measurement, because you know that in a certain classroom at a certain time probably the TV set was on.

What you do not measure very well though are the effects on the child after that, whether it is a positive effect, or anything other than an entertainment thing. So you could see that the actual use in the classroom was quite different from circumstance to circumstance. In some places it literally was that the teacher turned on the television set. In other rather, in my experience, anyway, limited circumstances, there was an immediate connection

etween the use of it as they would use the text book or any other audio-visual aid and measuring technique. I am not aware of any reasonably large scale follow-up study which has attempted to measure that directly. I know that the studies have been done about how many teachers use it.

Mr. Walker: In the case of MathMakers, for instance, the research that went into that involved tracking the comprehension of students as individuals in test groups, as well as groups as a whole through exposure to the program, through exposure to the program and workbooks associated with the program and through subsequent after-the-program and workbook comprehension 10 days afterwards. The results there were very satisfactory in terms of the general question, did children learn? Yes, they seemed to have.

The more reinforcement that they were given through other instructional approaches, including those of the teacher, the better they did.

I am sure you are well aware of the millions of dollars that have been poured into attempts to get at educational effectiveness, particularly by the US office of education.

Mr. Chairman: Yes. It is part of the reason why I took you down that rather diffuse trail.

I want to just wrap up on one other matter that I have, then we will see if anybody else has some things to discuss.

In the course of the research, John came across this matter of the basis upon which TVOntario operates and whether it is, indeed, independent and whether it is, indeed, educational. Could you elaborate on your concept of what that really is? We could not find something which really defined educational broadcasting. In a number of times in a number of ways, today, we have tried to draw the lines or see what your definition of your mandate is. Are you reasonably satisfied that there is not a clear written definition of educational broadcasting?

Dr. Parr: Mr. Chairman, I prefer it the way it is. We are left with a lot of latitude. I think that is desirable so long as there are checks and balances, of which a committee of this sort is one. I feel it would be restrictive, particularly at the time when education approaches are changing so rapidly, if we were to find ourselves with a more constrained definition.

I understand the one that emerged, and it was long before my time at TVOntario, resulted from the joint agreement between the provinces and the federal authority, which is not a situation that arises very frequently. It seems to us to be a workable definition. Within that, we place our own goals and objectives which we would like to feel from time to time may be adjusted. We review them frequently. So I think we are satisfied with the definition under which we work.

Mr. Chairman: You do not feel a challenge, and I take it there has not been a challenge from, say, the private broadcasting

sector concerning the matter that your programming is supposed to be distinctly different?

Dr. Parr: From time to time this happens. I think generally, when we have conversations with them, we are able to persuade them that we are distinctly different. This happens in two ways. If you compare the prime-time listings, whilst you might find individual similarities, when you look at the whole lot and compare them there is the difference. Then, as I mentioned this morning, what I believe makes the distinct difference is the educational or contextualization of the programs which we make.

Mr. Chairman: So as far as you can see there are no real problems in that regard now?

Dr. Parr: No. It seems to me to be natural that the more audience we capture the more likely it is that criticism will be made even though the criticism itself may not get more valid.

Mr. Chairman: It also strikes me that as you move into other than the traditional concept of educational broadcasting, which is putting out programs which will be used in schools, you will continue to get yourself into areas where other people will say, "Why are you doing that kind of programming when I can watch that on CBC, CTV?"

Dr. Parr: I think we have to be prepared to resist and respond to that sort of argument and, of course, review what we are doing very frequently, which we do, but not be bullied into going into the four-wall style of education exclusively.

Mr. Chairman: If you were to predict for us today how you might change and how TVOntario will look 10 years from now, what directions do you think you will be taking? Is there an obvious field that you are thinking about that you are not really into now?

3:30 p.m.

Dr. Parr: That is a wonderful question. I suspect, and it is going to be rather difficult to separate cause and effect, that there is going to be a much more habitual educational approach made within the home. I think there is going to be a linkage, of course, between what happens in the school and what happens in the home.

This, by the way, is reflected in our programming and our approach. I suspect, and this is reflected in some of the programs that we are currently doing, that the sorts of things which students of all ages can do in the home is going to make people in the schools ask whether their resourcefulness is to change, whether they do indeed become resource people rather than the kinds of teachers that we currently imagine them to be.

So I see, as this kind of change arises and as people do vest more educational resourcefulness into the home as a result of the availability of hardware and, I think, general changing attitudes too, the role we have to play becoming an increasingly important one. I think we have to not just be prepared to respond

to that, but be prepared to contribute to that reformation.

Mr. Chairman: For what it's worth, one of my prognostications would be that you can and you should move into areas that are not being filled by anybody else. One of the things I do feel that PBS in the States does is it seems to capture fields where others are not involved. In particular, the trade union movement gets a reasonable documentation of its history in the United States on public television which does not happen at all in Canada.

They appear on a number of occasions to have moved into program areas that somehow have become a vacuum and have picked that up and documented and done research and prepared programs that no one else would do. I am wondering if TVOntario is considering the same concept; to try to identify areas that have not been touched, where there's been no research, no documentation, no programming prepared, and move into those things.

Dr. Parr: I will answer briefly and then David can answer to the particular, because we are glad you asked that question.

I do not think we would do things that have not been done just for the sake of doing them. We do, to the best of our ability, try and find out what it is that our client groups--whether it's school or in the home--want, what they need, what they expect and match that against what we believe we can supply and what the television mode is most suited to. So, in that process, we do fill some of the gaps anyway that you suggest; certainly not all of them.

In the matter of the trade union movement, there was a series of programs that related to that--when?

Mr. Walker: It was produced two years ago, on the history of Canadian unions.

On the general question, what might we expect: We hear right now what the audiences expect, and the technology is making it possible. They are fed up with one-way television and they want an opportunity to do more than sit in front of the set but to interact with what is happening. That comes most powerfully and most recently to us through the computer-managed learning experiences we have had in the past year; one series dealing with ecological concerns, another dealing with music.

The people who subscribe to those gratuitously offered comments on the computer-generated letters--certainly one of the coldest forms of communication ever invented--which were sent in response to their questions. They said both marvellous and shaming things, such as: "This is the first opportunity I have had to really understand the value of television. Your series has made a difference in my life." These are very emotional and very heartfelt statements and they come from hundreds of people.

We have with Telidon, we have with the telephone, an opportunity for people to not just talk back to television but to take part in an educational process of very considerable

significance to their own lives. I think that is the direction we want to go in and it is that invocation of technology--quite frankly, we had problems with the kind of technological fix that your report put us in. You pictured us as some kind of Prometheus all tied up with wire. Promethean perhaps, but not tied up with wire. We think the wires that surround us connect us to people and their needs and can be two-way and need not necessarily be wire but can be hertzian waves. We want to use all of those things to get that interaction and that stimulation that is possible between one individual and another.

Mr. Ruston: I wonder if I might ask one question on the administrative thing. It has to do with your lease. I see you have a 15-year lease at a present annual rental of \$721,000. Do you know offhand what the amount of square footage is that you have in your lease?

Mr. Brookes: Yes, approximately 100,000 square feet.

Mr. Chairman: We thank you very much for coming in today and for helping us a little bit. John will be drafting a report which the committee will discuss and I hope that John is free to give you a call if there are any gaps in information and things like that. We appreciate the co-operation that we have had from you and we hope that before we stick that report in there you can have the opportunity to take a look at it and maybe we can do some good for TVOntario and everybody else as well. Thank you for coming.

Dr. Parr: Thank you, Mr. Chairman, and your committee for the penetrating questions and the very cordial way in which you have treated us.

Mr. Chairman: The committee stands adjourned until 10 tomorrow morning.

The committee adjourned at 3:37 p.m.

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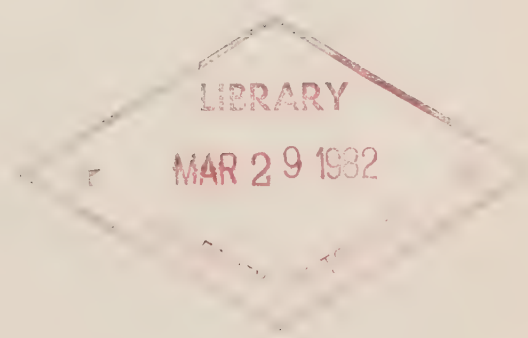
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STANDING COMMITTEE ON PROCEDURAL AFFAIRS

ONTARIO LOTTERY CORPORATION REVIEW

THURSDAY, SEPTEMBER 18, 1980

Morning sitting



STANDING COMMITTEE ON PROCEDURAL AFFAIRS

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Sterling, N.W. (Carleton-Grenville PC)

Research Officer: Eichmanis, J.
Clerk: White, G.

Witnesses:

From the Ontario Lottery Corporation:
Hawkins, A., Assistant General Manager, Operations
Morris, D.N., General Manager
Petrik, K., Executive Assistant to the General Manager
Van Camp, J., Controller

LEGISLATURE OF ONTARIO

STANDING COMMITTEE ON PROCEDURAL AFFAIRS

THURSDAY, SEPTEMBER 18, 1980

The committee met at 10:19 a.m. in committee room No. 2.

ONTARIO LOTTERY CORPORATION REVIEW

Mr. Chairman: I will call the committee to order. This morning's hearings are about a review of the Ontario Lottery Corporation. I believe you have a little overhead presentation for a while and we will start on it.

We have adopted the practice of hearing testimony under oath this time. Mr. Morris, if you would introduce your people, then I can dispense with that by simply going through the list and swearing them in. Then you can proceed with your presentation.

D.N. Morris, sworn.

A.J. Hawkins, sworn.

J. Van Camp, sworn.

K. Petrik, sworn.

Mr. Chairman: Do you want to start with your overhead thing and we will move out? Go right ahead.

Mr. Morris: Mr. Chairman, the purpose of this presentation is to provide you and the members of your committee with a brief explanation on how the Ontario Lottery Corporation operates, although I must say, having heard some of the comments of your members of this morning, we should maybe be here with a presentation on how to win with Wintario but unfortunately we do not have such a presentation.

In an effort to assist you and the committee in your review I will discuss the corporation's structure, its financial operations and the benefits the disposition of its profits bring to the people of the province. Bearing in mind the terms of reference of the standing committee on procedural affairs, we will also seek to demonstrate the effectiveness of the corporation's operations and speak to the question of redundancy and overlapping services.

The Ontario government entered the lottery field at a time when millions of dollars in lottery ticket sales were departing the province for other jurisdictions. There was an escalating problem, indicating clearly that the Ontario residents wanted the opportunity to participate in such games, but they could never enjoy the benefits which would flow from the profits of such games.

Looking back over five years, the Ontario government's objective of countering cash outflow to other jurisdictions has

been met. Well over \$1 billion in lottery ticket sales have remained in Ontario. Profits of \$390 million have made and continue to make a special contribution towards the quality of life in the areas of sports, fitness, culture, health and environmental research, social service and hospital capital projects. In addition, the corporation has made available \$545 million in prizes.

It would be helpful to you, I believe, to know who the participants are that are and have been involved in the development of government lotteries in Canada. They consist of provincial, interprovincial and, until the end of 1979, federal administrations. Loto Quebec introduced the first government operated lottery in Canada in 1970, followed by Manitoba in 1971, British Columbia, Saskatchewan and Alberta in 1974, Ontario in 1975 and Newfoundland, New Brunswick, Nova Scotia and Prince Edward Island in 1976.

The Interprovincial Lottery Corporation was established in 1976 to administer national lotteries on behalf of the provinces, with Ontario spearheading the move. The Interprovincial Lottery Corporation is a company which is owned by all 10 provinces. Each province is a shareholder and the corporation is managed by a 16-member board of directors. There are four directors each from the Western Canada Lottery Foundation, the Ontario Lottery Corporation, Loto Quebec and the Atlantic Lottery Corporation.

The Interprovincial Lottery Corporation operates two games: The Provincial and Super Loto. The latter game came into existence with the demise of Loto Canada at the end of 1979. Each of the four regional lottery authorities is responsible for marketing interprovincial products in its own area, as well as being responsible for the dedication of proportionately divided profits. Profits are pro rated back to the regions on the percentage of sales obtained.

The federal government also operated a lottery known as the Olympic Lottery, to finance the Montreal Olympics, from 1972 to 1976. This lottery was succeeded by a similar game, called Loto Canada, in 1976, which came to an end on December 31, 1979, when the federal government withdrew from the field.

I am sure you are aware of a recent announcement by the federal government affirming the terms of the federal-provincial agreement signed in 1979 which turned over lottery administration to the provinces.

I would now like to turn to the operational structure of the Ontario Lottery Corporation. As a crown corporation its policies are directed by a nine-member board of directors appointed by the Lieutenant Governor in Council. These directors bring regional representation and input to the corporation's operations. Operated in a manner similar to a private business organization, the corporation reports to the House through the Minister of Culture and Recreation. Day-to-day operations are directed by a general manager, with operations, marketing, sales and distribution and internal audit divisions. The current staff level is 130 employees.

In addition, at the moment we have 47 independent businessmen and women acting as distributors throughout Ontario. The distributors are selected by a special subcommittee of the board of directors after a review of applications which have been submitted to the corporation. Using established criteria, including business experience and financial background, the subcommittee conducts personal interviews and submits its recommendation to the full board of directors for approval.

It should be noted that periodic territorial boundary adjustments are made in order to ensure that the market is adequately serviced. This is evidenced by the growth of the network from the original 36 distributors to its current level of 47.

Distributor effectiveness is constantly monitored and, in the event of unsatisfactory performance, the corporation may terminate the distribution agreement and replace the distributor.

Each distributor is responsible for establishing his own retail network, made up of peddlers, trust companies, banks, corner grocery stores, gas stations, barber shops, and even some charitable and nonprofit organizations.

Retailers make application to their local distributor, but it is the corporation that issues the licence to sell OLC products. It is the responsibility of each distributor to service his retailers. It has always been the corporation's aim to make lottery tickets available as widely as possible. The fact that there are approximately 21,000 authorized retailers in the province speaks for itself. Close to 1,200 of these retailers are also Lottario agents, selling Lottario tickets via specially installed computer terminals. The selection of Lottario agents is made on the basis of the volume of ticket sales of other lottery products, location and traffic flow.

The Ontario Lottery Corporation markets four different games: Wintario, Lottario, The Provincial and Super Loto. The latter two are sold by the corporation under the auspices of the Interprovincial Lottery Corporation.

Each of the games is designed to appeal to different segments of the market and incorporate special features accordingly. Wintario, for example, which is the original game of the corporation, offers grand prizes of \$100,000 and \$25,000. Its game design features the drawing of nine winning numbers, some of which may be matched anywhere in the ticket number. It is a weekly game.

Lottario was introduced almost two years ago. It is the first and only active game of the corporation. Players may select their own six-digit ticket numbers which are then entered in a computer terminal. The prize structure is calculated on a parimutuel basis and there is a special jackpot feature which grows each week until it is won. The highest jackpot so far has been over \$1.2 million.

10:30 a.m.

The Provincial offers grand prizes of \$1 million and \$100,000. In addition to a scratch-off instant feature, there are a variety of ways to play the game, including matching a seven-digit decomposable number, matching numbers in boxes A, B or C and, also, a new feature which we call switch play.

Super Loto, which was launched on January 1, 1980, is a \$10 ticket game which offers 10 prizes of \$1 million and subsidiary prizes valued at many millions more.

Our ongoing market research has revealed a lot about our players and how they feel about their lotteries. For example, recent studies have shown that 84.8 per cent of the provincial population has participated at some time in our games, cutting through every socio-economic group. They show that Ontario residents spend neither a lot of time nor money on lotteries and view their expenditures as entertainment. People play because it is fun, and they have a chance for a little excitement.

The majority of Wintario players, 79.2 per cent, play within a purchase range of one and five tickets weekly. Lottario players follow much the same pattern with 89 per cent playing one to five boards weekly. Some 85 per cent of Provincial players buy one or two tickets per draw.

As this slide will reveal, a great many people participate in lotteries and there is no concrete evidence to support the often-quoted statement that lotteries are a tax on the poor.

It is interesting to note that the largest participation category of our players consists of those within the \$20,000 to \$34,999 income range.

As you will now observe from the chart before you, the corporation's operating profits climbed from \$43 million in its first year of operation to \$98 million in its third. It dipped to \$76 million in its fourth, and is climbing once again. Projected net profits and proceeds are \$116 million for the 1980-81 fiscal year.

Before we discuss the prognosis for lottery profits we should observe just how these proceeds have been used.

Wintario profits, worth more than \$240 million, have been paid to 30,000 individuals and groups for sports, fitness and cultural products by the Minister of Culture and Recreation (Mr. Baetz).

Provincial lottery proceeds of \$87 million have been handed over to the consolidated revenue fund by the corporation. In turn, the ministries of Health, Labour, Environment, Agriculture and Food, Natural Resources, Community and Social Services and the Provincial Secretariat for Justice have been responsible for allocating these provincial lottery funds. I am sure the committee will be interested to know that, recently, \$1 million of Provincial lottery proceeds have been used to provide research foundation fellowships in the name of Terry Fox with the Ontario Cancer Institute.

Super Loto proceeds have been dedicated toward hospital capital projects for the next three years. These profits are allowing Ontario residents to expand their present and future horizons in a remarkable way.

Corporation profits for the future: While nothing in this world remains the same for long, we anticipate that lottery profits will continue to rise and provide a source of funding for many worthy projects. This statement is based on the belief that the corporation will continue to meet and respond to market needs using innovative and sound business principles. We have learned much during the five years we have been operating, and much from exchanges of information with other jurisdictions.

For example, in most North American lottery administrations active and participatory game designs take up a lion's share of the market. In Ontario, we market three passive games--Wintario, the Provincial, and Super Loto--and only one active game, Lottario.

We expect, however, that Lottario will continue to expand its market base significantly. Currently there are only 1,200 Lottario terminals distributed throughout the province, as opposed to 2,000 terminals in the province of Quebec. It should be noted that computer games are very profitable.

The corporation, the same as any business operation, is constantly revitalizing and enhancing its existing products and creating new ones to meet consumer demand. There are a number of new products currently under development that will fulfill the corporation's objectives.

Because of declining sales in the spring of 1979, a decrease in profits was experienced. A redesign of our products has reversed this trend. The corporation today is moving towards operating its games with variable prize structures. In variable prize structures, prize funds are a fixed percentage of the actual sales. All winning tickets are paid from the prize fund. After one year, unclaimed prize funds are utilized for bonus draws.

If we look at other North American lottery jurisdictions, it will be seen that the Ontario Lottery Corporation ranks sixth out of 16 in both sales and profits. It should be noted that the five larger jurisdictions have instant games in their product mix, while Ontario does not.

The Ontario Lottery Corporation has always been most concerned with ensuring that it serves the people of Ontario in the most efficient and responsible way. If we compare its operating expenses to other lottery jurisdictions, it will be observed that the OLC compares favourably.

As you will see from this slide, operating expenses, excluding commissions, when compared as a percentage of net sales, have not significantly increased during the five years of operation. In 1975, for example, operating expenses represented 6.3 per cent of sales, or \$6,077,000. Wintario was then the only game operating.

Moving on to the fiscal year 1978-79, when the corporation's products numbered three, operating expenses represented 6.6 per cent of net sales. In dollar terms, this was \$15,448,000 or \$5.1 million per game.

It should be noted, however, that during this period, under the heading "Administration and Other Expenses," there was included over \$1 million in additional expenses relating to the start-up of the Lottario number selection game.

Forecast operating expenses during fiscal 1979-80 account for 6.9 per cent of total sales, or \$21,684,000, or \$5.4 million per game. This increase was due to two major re-launch advertising campaigns, a third game launch campaign, and additional start-up costs relating to the Lottario number selection game.

Looking ahead to fiscal 1980-81, we anticipate operating expenses to drop to 6.2 per cent of sales, since the extraordinary expenses are now behind us. This percentage will represent \$25.6 million and reflect expenses for Super Loto for a full year in the amount of \$2 million.

You will note that operating expenses will be less in percentage terms during 1980-81 for the administration of four games than those incurred during the corporation's first year of operation in 1975-76 when it administered Wintario alone.

10:40 a.m.

While we have not touched the area of charitable lotteries operated in the private sector, this might be an appropriate time to mention them.

We are advised by the lotteries branch of the Ministry of Consumer and Commercial Relations that in the 1979-80 fiscal year charitable groups earned \$325 million from their activities which include lotteries, bingo and Monte Carlo nights. It should be pointed out that many charitable groups and nonprofit organizations participate in Ontario Lottery Corporation activities as retailers, obtaining the commissions for fund-raising purposes.

When comparing the operating expenses of the corporation to those of charitable lotteries operated in the private sector, there is a significant difference. In Big Brothers' lottery, for example, operating expenses are believed to account for 50 per cent of revenues with prizes and profits representing 30 per cent and 20 per cent respectively.

According to Cash for Life's most recent financial statement its expenses, which include commissions and operating expenses of 26.6 per cent were higher than its net income of 21.4 per cent.

The Ontario Lottery Corporation's operating expenses, including commissions for 1979-80, amounted to 15.6 per cent. Advertising, which is Cash for Life's single largest expense after prizes, reached 11.8 per cent of gross sales as opposed to the 2.6 per cent per game expended by the Ontario Lottery Corporation.

This slide indicates the evolution of distributors' commission structure over the five-year history of the corporation. The current commission rate on Wintario stands at three cents on the first 100,000 tickets and two cents thereafter. On Lottario tickets there is a \$3 service fee per terminal per week in each territory paid to the salesman who services the account. Provincial commissions are 11.25 cents per ticket, while Super Loto pays 22.5 cents for every ticket sold.

The matter of distributor commissions has always been of considerable concern to the corporation. Commissions are constantly monitored and, over the years, have been altered to reflect changed sales levels and the addition of new products according to market conditions. From the commission each distributor receives, he must pay all overhead and selling costs including salaries for sales, office staff, rent, interest, insurance and other business costs.

It has been the corporation's objective to ensure that distributors are adequately and fairly rewarded for their efforts but never excessively.

Looking at retailers' commissions, it will be seen that Wintario offers eight cents per ticket; the Provincial, 25 cents; Super Loto, 50 cents; and Lottario, five cents. Many of our retailers are small business operations, and the addition of lottery commissions to their incomes can make a significant difference. It is another way that the lottery ticket sales benefit Ontario residents.

It cannot be denied that the \$100 million the Ontario Lottery Corporation raises on behalf of the people of the province is a small amount when compared with total government revenue. However, since the committee staff is judging the corporation on business criteria, it should be noted that in Ontario there are relatively few corporations with before-tax profits in excess of \$100 million. If the Ontario Lottery Corporation were subject to the same kind of income taxes the companies in the private sector are, it would rank somewhere in the top 50 or 60 corporations in Canada in terms of profits. We can find no record of any corporation operating solely within the province earning as much as the Ontario Lottery Corporation. This fact must surely speak for itself.

While it may be true that the revenue currently generated by the corporation could be raised by a variety of methods, including raising the retail sales tax, the introduction of such a measure would certainly be described as unpopular. It is the corporation's contention that lottery tickets are a consumer product and the purchase thereof is a choice each purchaser makes. It is not an obligatory action like the payment of taxes, but one of freedom of choice.

The final statement of the committee's staff report indicating that, "The clear winners are the lottery corporation and distributors and retailers," is mystifying. The corporation is an agency which merely markets and administers the lotteries. Its profits are handed over to the consolidated revenue fund for

distribution as outlined, and no profits whatsoever remain with the corporation. It is true that the distributors and retailers are rewarded for their work. However, I am sure that all of us here today are rewarded for our work effort.

The cornerstone of the corporation's operation remains the maintenance and integrity of the province's lotteries. Perhaps there are some ways to cut corners as some lotteries in the private sector have done. We believe, however, that the people of this province deserve the best possible lottery operation in terms of security and integrity and that is what the corporation is entrusted to provide.

In addition to these obvious benefits of the lotteries, like prize winners, grant recipients and those involved in the administration of our lotteries, a rippling effect can be seen throughout the province. Thousands of construction jobs all across the province have been credited to the Wintario capital building program alone.

We are here at your disposal today to answer any further queries that you or the members of your committee might have.

Mr. Chairman: Thank you very much for that presentation. As is our custom, you have been mailed a copy of the research material the committee has and now we will just go through the questions which the staff pointed out at that time.

What plan does the lottery corporation have to increase net profits or do you have a plan?

Mr. Morris: I am sorry?

Mr. Chairman: Do you have a plan to kind of change the profit structure of the corporation in the near future or do you have any long-range plans of any kind?

Mr. Morris: We are embarked on a continuous program of market research with a view to constantly enhancing our games, bringing new designs on as soon as the sales of a particular game falter.

It is a well-established fact that in the lottery business your product has a relatively short life cycle. If we get a year to a year and a half out of a game, I think that is about the maximum we can expect. Therefore it is necessary for us to constantly be monitoring the public to find out what are the interesting features, what they like about games, what they do not like about games, and from that research we are constantly working on game design.

We also exchange information with other lottery jurisdictions, exchanging research ideas, game design ideas, and certainly there is still a tremendous market out there in what we call the instant game which has not yet been introduced in Ontario.

Mr. Chairman: If I could pursue that just a bit, I notice in your presentation this morning you went at some length into

descriptions of the types of games that are available and classifications of active and passive and whatever, and it has been rumoured spasmodically here that there would at some point in time be an effort made to enter into other fields such as casinos. Of course, there are casinos operating on a special occasion permit, I guess--I am not sure what the terminology is--but you can run a Monte Carlo night; you can do things of that nature.

Has the lottery corporation done any research and do you have any long-range plans for the development of more active games?

Mr. Morris: Mr. Chairman, the act which incorporates the Ontario Lottery Corporation gave it as a mandate to operate lottery games. We have no mandate and no plans to operate casino type games.

Mr. Chairman: So you have done no research in that regard at all?

Mr. Morris: No.

Mr. Chairman: Could you clarify for the members of the committee the kind of distinctions which you make in that regard, going from the technique of selling a lottery ticket to people to something which is more active, such as the computer terminal game? How did you make that distinction and what kind of planning process did you go through to get to it?

10:50 a.m.

Mr. Morris: The passive lottery ticket game--the original Wintario game and the existing Wintario game--is a passive game where a person buys a ticket, the number is drawn, and they have no real process where they pick the number. That was the first type of game introduced.

There is a general market trend toward active games. After people have bought passive games for a while, they get the idea they would like very much to pick their own numbers. There are a great many people who believe they have certain lucky numbers or they have certain ways of selecting numbers. There was available the technology to introduce a Lottario type of game.

Lotto games have been around for years and under a lottery game a person selects his own numbers. It was a case of putting together the computer technology that is available today with a game. The Lottario game that was designed is the old-fashioned lotto game where a person selects his numbers. However, where the new modern technology comes in is that they can enter their choice of numbers into a computer terminal. Instantly their bet is registered in our central computer and a ticket is immediately issued out of the computer terminal confirming the numbers they have entered, the time, date, location of their bet, and so on.

At the end of the week, on Saturday night at 11 o'clock on TV we have a draw, where one of our Ryo-Catteau machines is set in operation and six numbers drop and then a seventh jackpot number drops.

If a person has successfully selected the first six numbers, he wins the jackpot. How much they win depends on how much is being bet that week. Fifty percent of all the money bet goes into a prize pool; and then there is, first of all, the jackpot pool. If it were \$200,000 and only one person won the jackpot that week, that is what he would get. If two people happen to have selected the same numbers, then it would be \$100,000 each. If nobody selects the number that week, the prize continues to build until eventually it is selected.

There are prizes for picking the right five, four and three digits, and the prizes go down accordingly. Also the money is all divided on a parimutuel basis. It has been a very successful game because of the fact that people do like to choose their own numbers.

We are now at a point where we are getting ready to expand that game. We have had not quite two years of experience. We are at a point where we are looking at the present locations of our terminals. We are assessing potential new locations. We can see a fairly good increase in both sales and profits just from some upgrading of present locations and from the addition of new terminals.

Mr. Chairman: I am trying to get at how you plan changes in the process; what elements are seen to be acceptable to the corporation? I do understand that you initially began this kind of very passive buy-a-ticket-on-a-lottery routine. But by moving to the computer terminal you have accepted--and you use the words--"a bet," and the prize does change. It varies, so it is not a consistent thing.

Through the promotion you use, most notably I have been to a couple of presentations or the television program, you have really accepted the concept of entertainment while this goes on. It isn't quite Las Vegas, but it has the aura. It's kind of like Las Vegas in Bowmanville; it has that flair about it. People are dressed in tuxedos and there is a good deal of excitement and machines bubble and little coloured balls roll out. All of that aura of the gambling mystique is present.

It strikes me that you are only about at the mid-way point between a very passive notion of buying a ticket on a lottery to the very active notion of some--like now it is in Mike's Cigar Store. But I would dare to say that if you follow the current trend a year from now, there will be some day--it probably will not be called a casino, that might be a no-no, but if you did not read the sign, you would not notice the difference--that it will go to some kind of central--and I am sure this will all be dressed up very appropriately--marketing change which has a very active form of gambling in it. I am trying to get at how you are going to get there.

Mr. Morris: The only thing I can say is at the present time we are doing no research, and we have no plans to enter into that Las Vegas casino-type gambling you mention.

Yes, our TV shows--I really do not know that they have--I

have never been to Las Vegas, so I cannot really compare if our Wintario show looks like Las Vegas. But on our Wintario show every Thursday night, we have the machines. They do turn around, and balls do drop out. But the whole purpose is to have a random selection of the balls and numbers dropping down.

I have sat in on focus groups of research and I do not think the people looking at our program really think of it in those terms. They look at it that they are finding out and having the fun of watching the numbers come down. I do not think they view it in the same way that they would lay a bet on a roulette table.

Mr. Chairman: In this planning, how much of a consideration goes toward the concept of what is acceptable to the population at large? I really cannot make the distinction between the little bubbling machine which drops numbers out the bottom and a slot machine, except the obvious visual differences, but the concept is the same; the machine is the same; the mystique is the same.

Is it really that somewhere in your planning activities you have decided that certain things are not really socially acceptable here yet, and so you are going to call it a different name and run it in a different way? Is that basically the problem?

Mr. Morris: Any major change in the style of games would have to be approved by the government. We do not have a mandate to arbitrarily decide what types of lotteries will be offered in the province. Any major game change does have to be approved by the government.

Mr. Chairman: Part of your planning process then would involve some kind of consumer awareness survey. Do you do that kind of survey thing?

Mr. Morris: Yes, we do.

Mr. Chairman: What are you trying to determine from that?

Mr. Morris: First of all, we try to assess the effectiveness of our advertising program. We try to determine what people think of our present game designs. We try to determine what game designs they prefer. We show them alternatives. We also try to determine whether people think that our advertising and operation appears in good taste. Then, like any business, we are out there trying to find out if we are being effective in selling our product to the market.

I guess really what I am trying to say to you, sir, this morning is that in new product planning, at the present time we are confining ourselves to the two types of games that we presently have. We are doing research to constantly improve the passive game. We are also looking at expanding our present active game, and that expansion is more in technical and in mechanical ways than a change of game. At the present time, the game is still increasing in sales, and we are still on the upward curve with that game.

The only thing I can say to you, Mr. Chairman, is that at

the present time we are doing no research into active, casino-type gambling games.

11 a.m.

Mr. Chairman: Could you explain the planning process that led us to a computer terminal as opposed to a roulette wheel?

Mr. Morris: I have to confess that I cannot because I was not with the corporation at that time, but I could ask my colleagues here who were with the corporation if they were privy to that. Mr. Hawkins.

Mr. Hawkins: Mr. Chairman, I was present with the lottery when we did a feasibility study into the lotto-type game. We did not look at casino gambling in any form--blackjack, roulette, or other types of casino gambling. We looked at the ethnic population in Ontario and noted a lot of people come from Europe--first-, second- or third-generation--so we looked at the European-type games.

The European-type games are basically lotto games. They are very popular. They are much more popular than Wintario games. We then realized there was a market segment out there that we had not penetrated through the passive game of Wintario. We then designed a lotto game that would be appropriate to that target group inside Ontario. The reason we decided on a computer terminal was for the benefit of the player. You can play a lotto-type game by marking the correction on a piece of paper and having that piece of paper travel by truck from all over Ontario into a central data system which would then record your selection onto a computer file.

With Ontario being the size it is, it would take up to a week to transport that piece of paper from anywhere in Ontario to a data centre. Selections could be lost in the process, or damaged in the process so we could not read them. Therefore, the player would not be satisfied when he made his selection that he was in the draw. But having a computer terminal, the player knows instantly that he has a ticket in the draw; he knows what the numbers are, and he is satisfied that his ticket is in the draw when he or she watches the draw on television.

By looking at the range of the balls on the TV show, he can satisfy himself that his ticket is within that range of numbers. That, briefly, is the reason we went to the lotto-type game.

Mr. Chairman: Would part of the consideration in this planning process be that the computer terminal was not recognized by the public as being gambling in the traditional sense? For example, if you decided as just a straight business decision that the installation of computer terminals was too expensive, too complicated, too large a capital investment, it would have been cheaper to put a craps table in Mike's Cigar Store. I do not understand, frankly, why you wound up with the computer terminal instead of a roulette wheel, a craps table, whatever.

Mr. Hawkins: We never had the mandate to look at casino gambling, Mr. Chairman. I do not think the Ontario Lottery

Corporation could administer craps tables in every store outlet in Ontario. We would not know whether the craps table is being operated to the standards that it should be operated, and properly administered by the government. Our mandate was to administer lotteries, and lottery games is what we looked at.

Mr. Kennedy: It is less sinful the way they do it.

Mr. Chairman: The problem that I am having is that it seemed clear to me initially the sale of lottery tickets was what you were about. It seems to me that you also simply found something which is not recognizable as a normal gambling device which, through several interesting interpretations, produces a lottery ticket in the end but which is an active form of gambling. You simply found a new product.

So maybe if you are terribly successful, when I eventually get to Las Vegas I will find the Sahara Inn has got computer terminals--the craps tables and roulette tables are gone and they will have adopted your product line. But I am having some difficulty making the distinction. I understand it technically. Who had to approve the installation of the computer terminals?

Mr. Hawkins: The lotto game and its format using terminals and computers was approved by the government of Ontario. We sent them a proposal through our minister which was approved and we implemented it.

Mr. Chairman: So basically the process is you plan all of this, you do the survey, you find the machinery to implement it, you write it all up and you send that outside the corporation. That is then a decision made, I assume, by the cabinet that this is within your mandate. Is that right?

Mr. Hawkins: This is the way it goes, that is right.

Mr. Morris: Mr. Chairman, I think it is important that the computer terminal Lottario game we operate is recognized throughout the industry as a lottery. A lottery is different from a casino game.

I think that is an important distinction to make because the mandate and the act covering the lottery corporation only authorizes it to be involved in the administration of lottery games. Therefore this is a lottery game. It is a different format of lottery game, but it is still a lottery where numbers are drawn. It is not a gambling game in the sense of the casino game because there is the random selection of numbers. In casino games it is throwing dice or something like that on an individual basis.

Mr. Chairman: Is there really a definition that you have of a lottery game? You said several times now that your mandate is to run a lottery-type game. That implies there has to be a definition that up to a point it is a lottery game and after that it is not and you cannot do it.

Mr. Morris: I do not know of any specific definition but I think the one we normally work with is a lottery involves the

random selection of numbers. The system we use is balls dropping down from a machine. It could be the drawing of a ticket out of a barrel, something like that, but it is a random selection. I think that is the type of definition that we normally work with in our own minds.

Mr. Chairman: So that if someone were to take two little square-shaped things and throw them on a table that would be a random selection of numbers.

Mr. Morris: No, that is a casino game, throwing dice.

Mr. Chairman: But if we called it by a different name and put it in a different circumstance it would probably fit the criteria.

Mr. Morris: I do not think so, Mr. Chairman.

Mr. Chairman: Okay. But this is part of your process, it is your responsibility then to plan out what falls within the definition of a lottery, what mechanisms might be used, how it would be promoted, what the net effect of that would be in terms of your profits and all of that.

You covered this a bit in your presentation this morning and I think we would like to go into it a bit further. What impact has this massive numbers-racket program had on the little draw?

I would imagine from every riding in the province there are people who regularly hit the member and say, "My legion used to run a monthly draw and we used to get \$150,000 a year and put that back into the community and now we cannot do that because there is Wintario and The Provincial and all of that stuff." It is a fairly commonly-held belief that the government's activities in this regard have really hampered churches and legions and sports clubs and everybody else. Have you done much of a study of that?

11:10 a.m.

Mr. Morris: The figures which we have, which I referred to in my presentation, show there is still a very large volume of money being collected by charities. I have personally sat in on focus groups to hear what people are saying and certainly the feeling I got from listening to people--these are mostly lottery players--is that they still buy their tickets for the church raffle or the legion raffle or whatever.

Mr. Rowe: They're available.

Mr. Morris: As a matter of fact, this morning on the way over here I went to pay off a \$2 debt I had for buying a raffle for an old ladies' home in the east end of the city.

I think in that type of charitable operation, the charity is so directly identified with the ticket and what people are selling that people still buy them. I know I personally would find it very hard to have said no to the gentleman who said, "Would you buy a book of tickets for the old ladies' home?" I am not going to say,

"No, because I'm going to buy my Wintario tickets this week." I think there is still a high motivation on the part of people to support those small charities.

Mr. Chairman: What is a focus group?

Mr. Morris: A focus group is a group of 10 to 12 people who are selected and brought together. They are led by a group leader. They are usually given a questionnaire to fill out and then, as a group, they are asked questions and you get a general interplay to get their ideas.

Mr. Chairman: So this is kind of that ongoing public opinion sampling of what's acceptable, what isn't, what's working, what they like, what they will buy, what they won't buy.

Mr. Morris: Exactly.

Mr. Chairman: If you got a focus group who came in and said, "We would really like Minaki Lodge to become the gambling casino for Ontario," would that change your whole attitude about-- No, it wouldn't.

Mr. Morris: I operate under an act that says the corporation I am involved with is to run lotteries. If they suggested to me that it would be a great idea to run casino gambling at Minaki Lodge, I would probably suggest they go and talk to either Mr. Grossman or Mr. Drea.

Mr. Mancini: We know how Frank feels about it.

Mr. Chairman: The numbers you used indicate there is still a large amount of money spent on lotteries other than the ones which you run, but there did not seem to be a breakdown. It would appear to me from the numbers that we have gone from a lot of local ticket sales for lottery purposes to being very centralized. Though there are still some around for special occasions and there will be more as various ministries encourage private funding with government funding, it would appear to me there are fewer of them available, that there are not very many left who raise general funding through the sale of lottery tickets, and then redistribute it through a community. I think that is almost the territory of the provincial government these days.

Mr. Morris: I think the advent of Wintario and Wintario grants to a large extent has eliminated a need for a lot of groups to run raffles, local lotteries and so on. As we travel across the province with the Wintario show, going into these smaller communities with the show is probably one of the more enjoyable parts of being connected with the corporation, because it gives us a chance to meet with a great cross-section of people from Ontario. It is getting to the point now where every community you go into there is some project that has been assisted by Wintario.

Last month we had the Wintario show in Dryden. I had an opportunity to talk with the mayor of that town. He told me that without Wintario it could be that there would be no Dryden today. I said: "Gee, that sounds like a very strong statement. What do

you mean?" He said: "A few years ago we had a series of disastrous fires that wiped out a lot of our public facilities in this town. We were down to the point where we could not offer our townspeople anything. The cost to rebuild it all was certainly more than the townspeople of Dryden could bear."

Today they have new, beautiful recreational facilities in that town. In a town like Dryden that is probably very important because they are many miles away from alternative forms of entertainment and sport. It made me realize how important what we are doing in raising money is to some of these smaller communities across the province.

Mr. Chairman: Are you doing impact studies of the after effects of distribution of funds? There have been a couple of occasions, I think Chapleau was one, where it would appear that the use of lottery moneys to put up recreational facilities, I believe, in that case, appeared very attractive initially. In fact this county went ahead and did that, and then subsequently discovered that putting them up is the cheap part; running them is the expensive part. They ran into some difficulty in maintaining and operating.

In other words, are you funding projects initially which look very attractive to municipalities, but in after years, the operational costs are such that the municipalities are having difficulty bearing?

Mr. Morris: Again, the job of the lottery corporation as we see it is to raise the money and maximize the profits. As you are well aware, the Ministry of Consumer and Commercial Affairs, in the case of Wintario, is the organization which makes the grants and dispenses them. And I am sure if anyone was doing that, it would be the ministry. Certainly we do not do it in the lottery corporation.

Mr. Chairman: You are saying that is a bit of a disclaimer then, and the responsibility for the distribution of funds and any impacts they might have are not a consideration of the lottery corporation per se?

Mr. Morris: That is correct.

Mr. Chairman: You just run the thing.

I have one more question. The matter of how the distributors and the retailers are chosen has been raised on a number of occasions. Would you like to run through that for us?

Mr. Morris: We receive applications at the corporation from interested persons all across the province. We keep those applications on file. When it is determined that a territory is either going to be created or becomes available, we go through all the applications and any that are within a geographic area that applies to the territory, we put all those applications together and they are given to a subcommittee of our board of directors.

The subcommittee goes through all the applications, and they

are diligent in their efforts to pick what they think are likely candidates, applying tests of past business experience, financial stability and so on. Then, when they come down to a shorter list, they have personal interviews with the applicants. The subcommittee then makes a recommendation to the full board. It is the full board of directors of the lottery corporation which eventually appoints the distributor.

Mr. Chairman: Who sits on that subcommittee?

Mr. Morris: Three members of the board sit on the subcommittee. It is chaired by the vice-chairman of the board, Mr. MacLean. The two members are Mr. Daubney and Dr. Rigby.

Mr. Chairman: Is there a written set of criteria? In other words, are there formal guidelines?

Mr. Morris: I do not know. I have no conversations with the board members. They have what I would consider the normal business-type criteria that they use. I do not know that they have a specific check list.

Mr. Chairman: I wonder if maybe you could attempt to find that out for us and let us know subsequently. The inference is very clear. On a number of occasions it has been said flat out that those are essentially political decisions about who gets to be one, and I think we should try to clarify that if we can.

One of the things which we looked at in the process of doing this was kind of the full circle of the raising of the lottery money, the way the operation is run and the redistribution afterwards. In part, that is perhaps outside of your mandate.

Do you make comments to the ministry, because certainly the public perception of whether the lottery is a good thing, a bad thing, raised properly, run properly or not, the end result does have some effect, I would imagine, on your sales? If the word got out in the province that the lottery corporation was very badly run, gave money to people who should not get the money, was not a good thing, that would probably cause a bit of a dip in sales.

11:20 a.m.

Do things like the grant that was made to Brights Wines Limited of \$225,000 over three years, which, on the surface, appears to be a bit unusual and I am having some difficulty determining why lottery money goes to a winery, does that kind of thing come into consideration in the way that you run the lottery?

Mr. Morris: Mr. Chairman, I do not comment to the ministry on whom they make grants to. I must be honest, though, that I, of course, am aware through the news media and so on of where grants do go. If I see something that in my opinion is a very popular grant, I certainly use it as an example of what the corporation helps to provide, but I do not make comments on the grants.

Mr. Chairman: In part, the promotion of the lotteries, heavily involved in community groups, arenas, swimming pools,

donations of \$1 million to Terry Fox, all of that promotional material, is all very much a part of your domain, but I do not recall seeing any promotion for Lottario or Wintario or anything saying, "We are really great people and you should participate in this activity and we gave almost a quarter of a million dollars to Brights Wines." How do you select which ones you promote and which ones you do not promote?

Mr. Morris: I do not know that we consciously promote any one thing. What I was referring to, we are presently putting together our annual report and, in an effort to be informative to the general public we are going to be showing some of the places where money has gone. As you can see, there are thousands of grants that have been made and it would be impossible to show them all. We selected some that had caught our eye as we travelled around the province. I must confess I was not aware that Brights Wines had received a grant.

Mr. Chairman: This one caught my eye. I will leave it there for now if other members of the committee wish to ask questions.

Mr. Mancini: Mr. Chairman, just to follow up on your comments concerning the grant of lottery funds to Brights Wines, this information was tabled with us this morning. Some of the members of the committee have not had a chance to see this new information. Certainly, once we have had some time to review this matter and possibly get more detail, we might make some comment on our report to the Legislature about such an outrageous grant. Really, it is hard to believe.

Mr. Rowe: It should be taken up with the ministry.

Mr. Mancini: I think our report should have some comment and we certainly could deal with that when we are writing our report, Mr. Rowe, whether it will be included or not. I, for one, think that a report that will be tabled in the Legislature should contain some comment about this grant which on the surface looks outrageous, to say the least.

I have some questions also of Mr. Morris concerning the appointment of your distributors. I wonder if you would inform me what the average gross salary of your distributors would be.

Mr. Morris: In the year ending March 1980 the average net income of our distributors across the province, after paying their expenses and so on, was \$46,000. My colleagues suggest I should stress that is pre-tax.

Mr. Mancini: What type of contractual arrangement do you have with your distributors after your committee has decided to recommend them to the full board and the full board accepts their application? What type of contractual arrangements do you make, what do they sign, what is their term of office, et cetera?

Mr. Morris: They sign a contract with the corporation. The main thrust of the contract is that the franchise, if you could call it that, or the agreement is with the individual. If the individual should die then that distributorship becomes open

again. He does not have the right to pass it on or sell it or do anything like that. He does not have the right to pass it on, or sell it or do anything like that with it. He agrees to maintain certain standards, and so on, and abide by the rules and regulations of the corporation.

Mr. Mancini: I think you must have missed my point, sir. Is the contractual arrangement for an indefinite period? Is it for one year? Is it reviewed every 12 months?

Mr. Morris: It is indefinite. It is at the pleasure of the corporation.

Mr. Mancini: How would you go about removing a franchise from a distributor?

Mr. Morris: If a distributor was not meeting our standards he would be called in. My staff would work with him to correct his shortcomings. If the shortcomings were not corrected then it would be recommended to the board to remove the franchise.

Mr. Mancini: You have a legal right to remove the franchise. Is that a part of the contractual arrangements that the distributor signs?

Mr. Morris: Yes.

Mr. Mancini: You possibly have 90 days to take it away from him. How does that work?

Mr. Hawkins: He has a reasonable time to improve his performance or work in accordance with his agreement. The agreement outlines what he has to do.

Mr. Mancini: He does sign a document that says the corporation can remove the franchise?

Mr. Hawkins: Yes.

Mr. Mancini: Have you removed any franchises to date in the five years that you have been operating? How many have you removed?

Mr. Hawkins: We have removed--eight come to mind.

Mr. Mancini: Was there any legal action taken by the people who held the franchise?

Mr. Hawkins: Yes, there was one case from northern Ontario, a Mr. Lebel I believe.

Mr. Mancini: He has taken legal action against the corporation for unjustifiably removing his franchise?

Mr. Hawkins: That is correct.

Mr. Mancini: You turned it over to the corporation's lawyers?

Mr. Hawkins: That is correct.

Mr. Mancini: Has that gone to court?

Mr. Hawkins: No, sir, it has not.

Mr. Mancini: But it will be?

Mr. Hawkins: Mr. Lebel was in prison.

Mr. Mancini: Are you trying to make a deal with Mr. Lebel?

Mr. Hawkins: Are we trying to make a deal? No, we are not.

Mr. Mancini: Is he trying to make a deal, a settlement? Let us call it a settlement.

Mr. Hawkins: I think Mr. Lebel would like a settlement. We feel that Mr. Lebel was dismissed for cause. Mr. Lebel did serve time in jail, I believe.

Mr. Mancini: We do not want to get involved in details, just general questions.

Also, have you made any settlements with any of the franchisees that you have removed?

Mr. Hawkins: Not to my knowledge.

Mr. Mancini: Not even a penny?

Mr. Hawkins: Not to my knowledge.

Mr. Morris: We bought back tickets.

Mr. Hawkins: Oh, sure, if he has bought tickets and he did not sell them then, obviously, he would get a refund. But we did not negotiate a settlement, if that is what you are asking.

Mr. Morris: There would be no settlements, such as "We will give you three months of profits," or something like that, because they are independent businessmen.

Mr. Mancini: I see. Do you receive political representation for the appointment of these individuals?

Mr. Morris: I have not, personally, in my time.

Mr. Mancini: Has the corporation received any letters of political representation for the appointment of these distributors?

Mr. Morris: Yes, we have on occasion received letters from various members of the House recommending constituents.

Mr. Mancini: How do you deal with that?

Mr. Morris: I think we put it on the files so that the board members can review it when they are making their selection.

Mr. Mancini: Do you receive representation from cabinet ministers?

Mr. Morris: Yes, I think we have on occasion.

Mr. Mancini: Have those people been employed?

Mr. Morris: Not always. Sometimes, but not always.

Mr. Mancini: There is just one thing I forgot to ask, Mr. Morris. I should have asked it as my first question. Who was the general manager before yourself, sir?

Mr. Morris: Mr. Pollock.

Mr. Mancini: I have a question on a different subject. The interprovincial superstructure that we saw on the screen, why is that necessary?

Mr. Morris: The Interprovincial Lottery Corporation is a corporation owned by the 10 provinces. Each province owns one tenth of the Interprovincial Lottery Corporation. In western Canada, the four western provinces, Manitoba, Saskatchewan, Alberta and British Columbia, have come together and operate their lotteries under an umbrella called the Western Canada Lottery Foundation. Similarly, in the four Atlantic provinces they have a lottery group they operate.

11:30 a.m.

The operation of the interprovincial corporation was set up on the basis that there would be 16 directors, four from each of the four groups.

Mr. Mancini: I understand the shape of the structure, but I have trouble coming to the conclusion why we need it. Ontario operates this lottery; we have our own corporation.

Mr. Morris: That's very simple. Some of these games--like a \$10 game or \$5 game--are of a type that we don't feel we could get sufficient distribution just in the province to support that type of game. By pooling together and having a national game we can spread the distribution costs and some of the printing costs over a much wider area.

Mr. Mancini: So you have distributors outside Ontario?

Mr. Morris: We don't, no.

Mr. Mancini: The other provinces take your tickets and give them to their distributors?

Mr. Morris: No. They are not our tickets. We take the Interprovincial Lottery Corporation tickets and we market them in Ontario. Loto Quebec takes the interprovincial tickets and they market them in Quebec. The same with the Atlantic Lottery Corporation; they do it in the Maritimes and the Western Canada Lottery Foundation do it in the west. They are not Ontario's

tickets. Ontario uses the tickets from the--

Mr. Mancini: Is that the \$5 Provincial and the \$10 Super Loto? Those are the two we are talking about that are handled under the superstructures?

Mr. Morris: Yes.

Mr. Mancini: I am still having a little difficulty understanding it. Is there a central headquarters that prints these tickets?

Mr. Morris: The actual day-to-day operations of the Interprovincial Lottery Corporation are handled under the auspices of a committee of four, who are the four general managers of the four lottery corporations. I meet with my fellow general managers on a regular basis. We also talk on the telephone. The staff of the Interprovincial Lottery Corporation consists of three people. They co-ordinate things.

The four managers get together and with their various staffs--I use my Ontario staff to advise me--come up with ticket designs, game designs and so on.

All the profits that are realized by the Interprovincial Lottery Corporation are then divided back to the four jurisdictions based on the percentage of sales. For example, if Ontario had 35 per cent of the sales, they get 35 per cent of the profit.

Mr. Mancini: If that is the case, I don't understand what benefit there is. If Quebec can sell 20 per cent of the tickets and they get 20 per cent of the revenue; and Ontario sells 35 and we get 35 per cent of the revenue, what's--

Mr. Morris: Because I couldn't make as much money for the lottery corporation operating a \$5 or \$10 game myself, as I could in handling a part of it from the overall games. It would cost as much--

Let me put it this way: Let's keep numbers simple. Let's say that Ontario could sell 25 per cent of the tickets and that represented one million tickets. If we have a game where across the country we can do four million tickets, our cost per unit of designing the game, printing the tickets, et cetera, is much less by going with the large group, rather than trying to go it alone.

Mr. Mancini: I see. So if I went to Quebec and wanted to buy a Provincial, it would look similar to the Provincial--

Mr. Morris: It would look exactly the same. It's exactly the same ticket; the number is selected on the same draw; everything.

Mr. Mancini: So you do it for the administrative reasons?

Mr. Morris: Yes.

Mr. Rowe: The prizes might be distributed in one of the other provinces too.

Mr. Morris: They could, but it is interesting; the luck of the draw, the prizes flow out all through the--

Mr. Rowe: That's right; it's from the same pot.

Mr. Mancini: You had mentioned earlier that you had taken some consumer awareness surveys. Are these similar to public opinion polls?

Mr. Morris: Yes.

Mr. Mancini: And who would do your public opinion polls?

Mr. Morris: We use a number of people. In the past we have used the Gallup poll for awareness tests.

Mr. Mancini: How much per year would you spend on taking those polls?

Mr. Morris: Last year our expenditures on research were in the neighbourhood of \$60,000. If you put that in the context of our sales volume of this year--we are approaching \$400 million--I think it is a much smaller percentage than some corporations would spend in research.

Mr. Mancini: On page four of our researcher's report it was shown that the Lottario portion of the lottery had lost substantial sales, or had actually lost money for the corporation.

Mr. Morris: This is on page four, sir?

Mr. Mancini: Yes. At the bottom it says, "for the same period the dollar figures for Wintario were..." and it gives the figures. Then it goes on to say, "and for Lottario, total sales were \$11 million. There was a net loss of \$9 million..." et cetera, "...owing to game development and start-up costs."

Mr. Morris: That is very easily explained, sir. It is the policy to write off all development and equipment costs as they occur.

Mr. Mancini: As a regular business.

Mr. Morris: All those costs are now behind us. In the first year or so when we were putting in the game, we had substantial costs. That is all behind us now. That is why the game is showing such a tremendous profit.

Mr. Mancini: I see. Very good.

There has been some talk earlier in the committee about the number of games and the type of games, et cetera, whether we have reached peak in the number of games we should have; or are we going to have one or two more; or if we are going to end up having so many games that the administration costs will get such that we

will not be much better off than having two or three games. Do you foresee a limit to this? Are you going to take steps to ensure that--because I assume once we get past five games, the public is going to be confused as to which games or draws that you are offering. I do not know how much further ahead you are going to be.

Mr. Morris: Mr. Mancini, the only thing I can say to that, I and my staff work together to operate the lottery corporation, much as any commercial business operation would be run. I think it is fair to say we would not deem it prudent to just keep adding products for the sake of adding products. I can assure you whenever we change the design of a game, which is maybe the equivalent of taking one game out and putting a new one in its place, or things like that, one of the big factors in our planning and decision-making is what is going to be the bottom line on that game.

I think it is fair to say that the people who operate the lottery on a day-to-day basis would have no interest in just arbitrarily adding games if the addition of the game did not improve the bottom line of the corporation.

Mr. Mancini: I get the feeling, after reading our researcher's report, that there was some anxiety within the corporation to ensure that the intake of funds continued to be at a fairly high level, the way it was when the lottery was first started. There was some feeling within the lottery corporation that the only way to do this was to have extra draws and games. I am just wondering if you are reaching your peak.

Mr. Morris: I do not know if the word "anxiety" is the right word. I think there is a normal--

Mr. Mancini: A mild anxiety.

Mr. Morris: I think there is a normal concern in the corporation, as there should be in any corporation, to maintain the financial health of the corporation. Yes, we are constantly looking at improving and changing our games. If we do not, we will go the way of any business that does not keep its product up-to-date. Yes, we are constantly on the look.

Mr. Mancini: You do not feel you have reached a peak then in your draws and games?

Mr. Morris: Oh, certainly not. We have game designs--

Mr. Mancini: Maybe it is just we who are confused.

Mr. Morris: We have game design features that are just waiting for the appropriate time to introduce them. When we next change a game, we have game designs that will be interesting to our fine public.

Mr. Mancini: I have one final question, and then I will turn it over to the other members of the committee. I noticed on your chart there when you were showing the costs of operating our lottery program as compared to some other jurisdictions, you did

not compare the Ontario program with that of Michigan or Pennsylvania, I believe, but you used New York and a couple of other states. I was very interested in Michigan, and I believe the Pennsylvania one. Would you have a breakdown on that?

11:40 a.m.

Mr. Morris: Have we got those numbers with us?

Mr. Mancini: Do you recall the one you flashed up?

Mrs. Petrik: Yes, there were two slides that referred to it.

Mr. Mancini: There was one in particular though where it shows Ontario as compared to New York and you mentioned a couple of others. I think you did not use the Michigan and Pennsylvania ones and I was a little curious because in the earlier slides it looked as though our income was approximately the same.

Mrs. Petrik: I certainly can provide that, Mr. Mancini. I will make it available.

Mr. Mancini: That is fine; that would be very good. I appreciate that.

Mr. Kennedy: Is it in essence what you do or are you just the collecting agency, the sales agency, because distribution of funds and the handling of applications are of the most interest I know of from residents and people who apply for grants. Do you have anything at all to do with that or do you just collect the money?

Mr. Morris: What we do at the lottery corporation is design games, have the games printed and marketed, and distributed throughout the province, collect the money in and then turn the money over to the government. The government, in the case of Wintario, for instance, is the Ministry of Culture and Recreation which makes the determination and hands out the money in the form of grants.

Mr. Kennedy: And processes applications and all this sort of thing?

Mr. Morris: Yes.

Mr. Kennedy: So if we want to know about that we are talking to the wrong people.

Mr. Morris: Yes, sir.

Mr. Rowe: Just to clarify that question, I notice in some of our material about the Ministry of Agriculture and Food and the projects which they sponsor, they looked after the wine grant distribution. That is in our material here.

Mr. Kennedy: Maybe John can tell us. In this material we have been provided with some of the ministries have reported what they have done with their allocation of lottery funds. Is this in

the total of the four lotteries because some of them are specified?

Mr. Eichmanis: No, we should make it quite clear. This is money that is allocated under The Provincial scheme only and there is an order in council which stipulates that there were about a half dozen or so ministries that received Provincial money, that is money from the game The Provincial; not from all of the lotteries, as I understand it, but simply from The Provincial.

Mr. Kennedy: Provincial lottery funds means lottery funds from The Provincial, one of the four.

Mr. Eichmanis: The Provincial game, that is correct, yes. That is under an order in council and the order in council stipulates the specific amount that each of those ministries is to receive over the number of years. That total sum has been raised to \$30 million or \$31 million over the last couple of years. Then for each ministry there is a breakdown and it is up to the individual ministry to decide how they will use those funds within certain criteria. The criterion is that it has to be related to health and environmental related research.

Mr. Kennedy: I know when the act changes were made there were estimates of the revenue which might be derived from the various lotteries. Is your mandate to raise as much money as you can or reach the goal of whatever they estimated?

Mr. Morris: We certainly view it, Mr. Kennedy, that our mandate is to maximize the profits of the lottery corporation.

Mr. Kennedy: There is just one other curiosity here. In one financial statement it shows an outlay to CIBC, which I presume is the Canadian Imperial Bank of Commerce. Is that correct?

Mr. Morris: Yes.

Mr. Kennedy: Why are they selected, why are they entered? Do we only deal with that bank?

Mr. Morris: When the lottery corporation was set up requests for proposals were made to the various banks. The CIBC came in with the lowest cost proposal for the storing and distribution of tickets across the province. From the printer the tickets move out through the Canadian Imperial Bank of Commerce to selected branches across the province. At those branches the distributors can go in and buy their tickets and pick them up. It costs us money to operate that system. It was done by a request for proposals.

Mr. Kennedy: Where are the computer terminals then? Are they in every bank? When you buy this active one--

Mr. Morris: The computer terminals are in 1,200 various locations across the province. They could be in kiosks.

In your riding, sir, if you go into Square One there is a kiosk in the centre of the concourse where they have terminals.

There are smoke shops that have them. There are variety stores, drug stores that have them.

Mr. Kennedy: Are there any in the banks?

Mr. Morris: No, there are no computer terminals in the banks. The only reason we do not have them in banks is because banks are closed on Saturdays and Saturday is our biggest day.

Mr. Kennedy: Yes, I see. That is all, Mr. Chairman.

Mr. Rowe: Just along the same line, I notice that when you went into Lottario you had to buy all those machines. As I recall, the federal government was going to go into that very game. There was a bit of a hassle and it ended up in Ontario's hands. I am not sure about the other provinces. Do they run one?

Mr. Morris: The province of Quebec does run one.

Mr. Rowe: Okay. Then did you not buy the machines that the minister down there had previously bought?

Mr. Morris: No, sir.

Mr. Rowe: I thought you had bought the ones down there.

Mr. Hawkins: Mr. Chairman, to my knowledge the federal government awarded the contract to General Instruments of the States without going to public tender or public quotations. The Ontario Lottery Corporation went through a request for proposal for a similar game. We did not know that the federal government was going to announce such a game.

After we went public, the federal government then announced their game. We selected a supplier, although not the same supplier as the federal government did. We did not buy the computer terminals from the federal government.

Mr. Chairman: Did you buy them in Canada?

Mr. Hawkins: Our terminals were assembled in Ottawa and the parts came from the US. Approximately 86 per cent of the contract was Ontario contact.

Mr. Chairman: Was it an Ontario company? How did you do that? You said you went public with it. Does that mean that you put out a tender proposal, bids were taken, or what?

Mr. Hawkins: We asked for proposals from the industry as to what types of equipment they would suggest we purchase and instal. We reviewed those documents and came to the conclusion we would select the ones that we do have.

Mr. Chairman: What company got that?

Mr. Hawkins: Datatrol and Consolidated Computers Incorporated got it.

Mr. Chairman: Where are they located?

Mr. Hawkins: In Ottawa.

Mr. Rowe: Are the machines paid for yet out of profits?

Mr. Hawkins: Oh, yes, sir. That is why we had a loss the first year. The game was introduced in November of 1978, and the sales from November to March were less than the costs to develop and install the game.

Mr. M. Davidson: How many terminals do you have now?

Mr. Hawkins: We now have 1,200.

Mr. M. Davidson: Are you planning an expansion?

Mr. Hawkins: Yes, we are looking at the terminals that we now have and expanding quite a few.

Mr. M. Davidson: By how many?

Mr. Hawkins: Three hundred maybe. We have not decided exactly how many.

11:50 a.m.

Mr. Rowe: Again, in connection with the Lottario prizes, what determines the size of the prize? Is it a percentage of the sales that week--25 per cent or what?

Mr. Hawkins: Yes. It is 50 per cent of the dollars played. Let us assume there were sales of \$2 million. So you would have \$1 million that would go into the prize fund. From the \$1 million, we would deduct all the prizes that would be three-digit winners, which are worth \$5. The balance would be spread over the remaining prize pools, which would be four digits, five digits and six digits. As for the jackpot and the second prize, all the prizes are shared by the number of winners who select those numbers.

Mr. Rowe: Yes, I understand that. But how do you decide how much money goes on a number one, out of this \$1 million?

Mr. Hawkins: It is a fixed percentage.

Mr. Rowe: A fixed percentage of the million?

Mr. Hawkins: Of any amount, whatever the balance is from 50 per cent of the sales less the fixed prize of \$5 that is allocated on the same basis every week. It is a fixed percentage.

Mr. Rowe: Yes. I am just wondering how you fix it. I am a little confused about it.

Mr. Hawkins: You fix it so that the share value will be--.

Mr. Rowe: Supposing there is just one winner in each of

those categories. The first prize winner I would think would be entitled to win more than the guy--

Mr. Hawkins: Oh, sure. That is the way it is.

Mr. Rowe: Is there a percentage of this 50 per cent taken for the first prize, and a percentage set among all the second prize winners?

Mr. Morris: If we could just give you an example, if the total prize money was \$1 million resulting in 50 per cent of \$2 million sales, first of all, we take all the three-digit winners and they each get \$5. That is a fixed amount.

Let us say, for example, that amounted to \$100,000. We would now have \$900,000 left to split into the various prize pools.

Mr. Rowe: Five pools? Four pools?

Mr. Morris: No, there would be three pools. If we had one winner of the first prize pool, which is the correct selection of six digits, that one winner would take the whole pool. If there were two or three winners--

Mr. Rowe: That is right. The size of that pool is really what I was asking about. How do you determine how much goes to the first one?

Mr. Morris: Okay. We will give you those now, sir.

Mr. Hawkins: You want to know the amount of money that would be allocated to each of the pools?

Mr. Rowe: Yes. I am just wondering how you split it up among the first pool, the second pool, the--

Mr. Hawkins: Thirty per cent would be the first pool.

Mr. Rowe: Thirty per cent to the first pool. Yes.

Mr. Hawkins: The second pool would be roughly 14 per cent. I am using round numbers here.

Mr. Rowe: Yes.

Mr. Hawkins: The third pool would be 28 per cent. The fourth pool would be 28 per cent. And the \$5 prizes would be the fifth pool.

Mr. Rowe: How do you determine the difference in percentages? You do not know how many winners are going to be in each pool.

Mr. Hawkins: That is right. You have got to make it appealing to the public. You have got to know that if the three-digit matches were \$5, then you will want something that will be attractive for four numbers. The four numbers, let us say for

argument's sake, are (inaudible). Then for four matches you would want something like \$150 or \$180.

Mr. Rowe: Is that the same percentage breakdown approximately each week?

Mr. Hawkins: Every week it is the same.

Mr. Rowe: Okay. Good enough.

Mr. Kennedy: Could I just ask a supplementary on this? With Wintario all the tickets are eligible to fall into the little balls, whether they are sold or not. This accumulates the windfall or special prize at some subsequent time. Am I correct?

Mr. Morris: The tickets are in series of one million tickets, and for each million tickets we put 46 per cent into the prize fund. The numbers are drawn and all the winners are paid. Any money remaining in the prize fund after one year we use for bonus draws.

Mr. Kennedy: Of the million tickets, say 900,000 are sold that week. Any one of the million numbers could fall.

Mr. Morris: The games are designed so that they should overall pay off the 46 per cent and that is the percentage we put in. However, all winners are paid.

Mr. Kennedy: Then there are two things that happen: either some of the numbers are not sold or there are some that are sold and never collected. What percentage of those who do purchase do not bother to check the prize list, or forget, or lose their ticket? Are there any statistics of that? After a draw do you know how many tickets actually were sold?

Mr. Morris: We know after a draw how many tickets have been sold because we know how many come back. We do not have any statistics on how many people would have a winning ticket and not cash it in.

Mr. Kennedy: Over the period of a year there are a few dropping in all the time.

Mr. Morris: We know there is that situation because we end up with money left over in the prize fund which we use for bonus draws.

Mr. Hawkins: When tickets come back from the marketplace unsold we do not open the envelopes to determine whether unsold tickets were winning tickets.

Mr. Kennedy: That was the point.

Mr. Hawkins: We do not do that because all the prize money in relation to sales is dedicated and if the prize is not claimed it is offered as a bonus prize up to the 46 per cent we guarantee. If it turns out that 48 per cent is actually claimed then we will pay the extra two per cent; but if it turns out to be less than

that then that fund is turned into bonus prizes.

Mr. Ruston: Just as a supplement to that, as you collect the money each month is that money kept in your funds or do you have to turn that over to the treasury?

Mr. Morris: The prize funds are kept under the control of the lottery corporation.

Mr. Ruston: You have the use of them, then?

Mr. Morris: Yes.

Mr. Ruston: You would invest them or you would get--

Mr. Morris: They are in bank accounts, because we never know when we are going to be hit with a prize claim--a person has up to one year to claim the prize.

Mr. Kennedy: The unsold ones are collected then by the distributor and returned to you over a period of time. What do you do, burn them after a while?

Mr. Morris: Yes, they are disposed of.

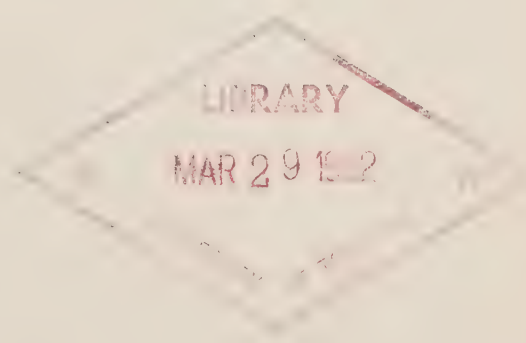
Mr. Hawkins: The British-American Banknote company, who are the producers of the tickets, also cremate the returned tickets for us.

Mr. Chairman: Is it the committee's pleasure to adjourn until two? The committee stands adjourned until two o'clock.

The committee recessed at 11:59 a.m.

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STANDING COMMITTEE ON PROCEDURAL AFFAIRS
ONTARIO LOTTERY CORPORATION REVIEW
THURSDAY, SEPTEMBER 18, 1980
Afternoon sitting



STANDING COMMITTEE ON PROCEDURAL AFFAIRS

CHAIRMAN: Breaugh, M. (Oshawa NDP)
VICE-CHAIRMAN: Davidson, M. (Cambridge NDP)
Charlton, B. (Hamilton Mountain, NDP)
Kennedy, R.D. (Mississauga South PC)
Mancini, R. (Essex South L)
Rowe, R.D. (Northumberland PC)
Ruston, R.F. (Essex North L)
Sterling, N.W. (Carleton-Grenville PC)

Research Officer: Eichmanis, J.
Clerk: White, G.

From the Ministry of Culture and Recreation:
Webber, B.F., Executive Director,
Finance and Administration Division

Witnesses:

From the Ontario Lottery Corporation:
Hawkins, A., Assistant General Manager, Operations
Morris, D.N., General Manager
Petrik, K., Executive Assistant to the General Manager
Van Camp, J., Controller

LEGISLATURE OF ONTARIO

STANDING COMMITTEE ON PROCEDURAL AFFAIRS

THURSDAY, SEPTEMBER 18, 1980

The committee resumed at 2:18 p.m. in committee room No. 2.

ONTARIO LOTTERY CORPORATION REVIEW
(continued)

Mr. Chairman: I think we will begin.

Mr. Ruston: When we were talking before lunch, we called on prizes not claimed and so forth. When you find that you have a built-up accumulation of money because of certain tickets that were not sold, or the prize was not claimed, you then put it on another draw. But in effect, you are still giving the same amount out.

In other words, you then sell more tickets probably on a bonus draw. So in effect the 46 per cent or something of what you give out is still the par. In other words, the next draw does not necessarily mean that there are more prizes given out for a dollar collected.

Mr. Morris: I think what you are saying is what we do. The bonus draw money is not a substitute for the regular prizes. There are prizes over and above the regular prizes.

Mr. Ruston: I just wanted to get it verified. I pretty well thought that is the way you operated it. Then we verified it that the money does stay in your account. You do not have to transfer the money to the Treasury.

Mr. Morris: Right. I just wanted to get something on record, Mr. Chairman. This morning, in response to a question by Mr. Kennedy about Canadian Imperial Bank of Commerce, he mentioned them by name, and I was thinking of our Wintario accounts. I wanted to make it clear that for the Lottario game the Bank of Montreal are the bankers.

Mr. Ruston: You mentioned--we have this list here that our researchers asked for, and that has to do with the money and I separate that from you completely because your operation is to sell tickets. The handing out of funds is strictly a political matter; the government is supposed to handle that, so I separate that.

However I noticed this morning you mentioned using it in publicity and I guess that is good business. Sometimes on a Thursday night they announce that certain funds have been given to a certain organization or in a certain area and if it is well received naturally you use it for publicity purposes. In a way I guess you are tied into the results of the actual funding but you have no say in how it is given out. In effect you can use results

of that funding to help advertise your lottery, which I guess is understandable.

You mentioned, if I remember correctly, the town of Dryden saying that without a Wintario grant they would not be able to cope. What you are saying is that without us maybe they would not have been able to manage or something.

To take a different interpretation of that, in Oxford county or in the Woodstock area or in Cobalt or Field we have had natural disasters. The governments managed to find the money to take care of people in these disasters, so I do not know that we need Wintario strictly to make a town survive. I do not think we can assume that.

I think if the money is needed badly enough it is the responsibility of government to raise the money by whatever means may seem necessary. I guess the fairest way is by paying taxes--those who have the most must pay the most. But I do not know that I accept your statement that without Wintario a town would not survive. That wasn't really its purpose.

Mr. Morris: I was merely responding and telling you what the mayor of the town said--not that I said that.

Mr. Ruston: I am sure, yes.

Of course, you have got to look at it different ways and find new ways or new systems to keep the people interested. I will admit I am one of those who participate in all lotteries. I do not go to the racetrack but I sure participate in all the lotteries. If you go to the racetrack you know about 85 per cent of the money is going to come back to those who bet. The problem is I do not know what horse is going to come in and I do not know that anybody else really knows except those who are driving them.

I say that with respect. If you have not driven horses you do not know how fast one is going to go or how to steer it. Actually, if I was really a betting man I suppose I would go to the racetrack. I would get more money back if I knew what I was doing at the racetrack or if I knew what the outcome was going to be.

So I am betting on your lottery and only getting a chance of 40 per cent coming back, but I take that risk because I know where the end results of the money are going. I think they are going in most cases to good purposes although I have great reservations about the other part after you collect the money. I do not really want to get involved in that but I have great reservations about how it is conducted. I think I could have an argument for a day with the Minister of Culture and Recreation (Mr. Baetz) sometimes about their methods of distributing money and so forth. But I am a great supporter of this.

I recall when I sent out a newsletter to my constituents a number of years ago I asked them if they were in favour of a lottery, but my question was worded, "Are you in favour of a lottery for health purposes or hospitals?" Of course, everybody is

in favour of that, like motherhood; you would not be against it. The problem with lotteries for that is that the \$100 million or \$120 million you would collect would only keep the hospitals in Ontario going for probably half a day or so.

It is a very great misconception people have about lotteries, when we say The Provincial is going to be for certain things or Super Loto is going to be for hospitals, well, it is going to be for capital construction. I think the Premier (Mr. Davis) was at one of the drawings when the Super Loto was in, and he was saying how they were giving out so much money. That is the problem that I have.

I almost think I would rather see you people distribute the money. As much as you are appointed by the province and by the government of the day, you might have a little more objective way of giving it out that would not be quite so political as it is now.

I went through a provincial election where a Premier would come out during the campaign and announce \$325,000 for a little arena within six miles of my home. That is really the sad part of governments getting into lotteries; the political part of it gets involved.

Mr. Rowe: Hugh O'Neil announces them down my way.

Mr. Ruston: He does?

Mr. Rowe: Yes.

Mr. Ruston: I don't think they should be. I don't think the minister should send the letters out on those that are approved; the ones that are not approved, the deputy minister sends them out. I think that is completely wrong, but I must stop that. I said I didn't want to get involved in that part. I'll have that argument with the minister some day.

Mr. M. Davidson: Now that you've made your point.

An hon. member: Strike it from the record.

Mr. Kennedy: You're under oath.

Mr. Ruston: Yes, we are always under oath, naturally.

What I am wondering about is whether we are going to be able to keep up the interest. I suppose that is your job as salesman, to try and keep it up. But I have great reservations, even now that we have four on the go, whether we may not have one or two too many.

I know that when one goes down you bring in another one. Whether, within the next year or two, one may be dropped and you will stick to a different type--but I really have great reservations whether we can continue four and maybe even the fifth one. From what I can gather, there is some talk about whether there is going to be an instant one coming along at some time in the near future. I wonder if we can take that in the progress.

Mr. Morris: It is part of our job to constantly work at improving our product and coming up with new ideas to keep people interested. As I acknowledged earlier, the life cycle of our product is a relatively short one, but we work hard at trying to keep the interest. So far we have been fortunate in coming up with new ideas.

I am interested to hear that you are a player of all lotteries because you are the type of fellow that we would love to have in focus groups sometime. What we have found and what we are working towards with our four games is trying to bring in the true marketing concept where we are aiming at specific products in the market to get certain market segments. Our experience so far shows that a person who buys a \$10 ticket is the type of person who is a lottery player, likes to play, is willing to spend \$10 or \$5; he usually buys all tickets available.

Where you get players who are solely Wintario players, that is their market. They are a \$1 a week or \$2 a week or even maybe a book, \$5 a week, but that is their game. So we do have market segments.

At the present time with our four games--and we are shortly going to be doing certain things to further segment and get a market concept on our games--I think we will be able to sustain the interest for quite a while. Certainly, I think the natural market is there if we go about developing it in the proper manner.

When you compare lotteries to things like horse racing, casino gambling, speculating on the stock market, and so on, the one thing about a lottery is that, first of all, it is readily accessible for a dollar a person if they do want to take a little flyer.

For a dollar they can probably go to the grocery store, the variety store, or wherever, and do it; whereas, if you get into horse racing, it is an expensive proposition. You have to take a night and go out to the track. You will probably bet on all the races. Similarly, if you want to get into casino gambling, if you want to go to Las Vegas or New Jersey, it is an expensive trip. If you went down to your local stockbroker and said, "I am prepared to invest a dollar a week, \$52 a year," he would tell you to get lost because he cannot afford to operate an account for that kind of money. So I think a dollar a week, or \$5, whatever a person feels they can afford, does give them a chance to have some fun.

2:30 p.m.

What you said about the payoffs in horse racing being different, and the same with casino gambling, the odds are different. First of all, one must remember that one of the prime reasons for running a lottery is to raise money for a government project. The easiest thing in the world would be for us to give 80 per cent in prizes. Our customers would love us.

Mr. M. Davidson: You are not suggesting the Jockey Club does not make money.

Mr. Morris: Oh, I am suggesting the Jockey Club does make money, but they do not make 50 per cent. When I look at some of the figures that the casino gambling houses in Las Vegas make, their profits really are not that great when you look at the tremendous entertainment costs, food costs, and so on, that they get involved in. Yes, they make money but not the percentage.

If you look at what we turn back to the people, plus what we turn back to the government for projects, the marginal profits of the lottery corporation--the return--is, I think, comparable and certainly I believe even a bit better if you take the overall picture.

Mr. Ruston: One thing that has always concerned me, and it might be difficult to administer, but I have always felt that if you can spread it out, fine. It is nice for somebody to win \$1 million but how great that means to 20 people. I have sent letters to the Minister of Culture and Recreation, Mr. Baetz, about the things you hear.

I was going out to the airport in a cab one day and the fellow said: "If they would just make those tickets \$25,000 maximum that would be a great prize for any one person to win. Everybody can use \$25,000. Somebody cannot use a million because they do not know how to spend it." But, anyway, what do you find if you extend the prizes too much? Is there a real problem in having them claimed? Some of them can be difficult. I think The Provincial this month is being changed because there is another number on it.

In Windsor, a lady went into a bank to claim her ticket with the different coloured numbers. Even the bank did not know that she had won. I think they told her she had won \$50 where she ended up winning \$5,000, \$25,000, or something, but a larger amount. They did not even know how to put them together.

What I am getting at is the more you spread the prizes out to \$1,000, \$5,000 or \$10,000 instead of large prizes you would then make it so complicated for people to check over their prize that they have the habit of going through them without finding the winning combination. I do not know if that is a problem.

Mr. Morris: First of all, in that particular game you are referring to, I will be the first to acknowledge that it is a difficult game to understand. That is a provincial game. It is run by the Interprovincial Lottery Corporation, and coast to coast we were told by players that they did not like it, they could not understand it. There is an interim move to improve the game slightly. We have added the seven-digit number which is an old standby. Everybody understands the seven-digit decomposable number in a lottery. We are taking steps to change that game to a more readily understandable format.

When you talk about more small prizes, or intermediate-sized prizes, a concern was expressed to us by our market research. It comes through. There are still a significant number of people who like a chance to win one big prize. Towards that end, we are in the throes of preparing a couple of new games where we are going

to be doing exactly what you are suggesting, reducing the number of major prizes and spreading it out in the mid-group and lower.

If you look at the Super Loto game, that game was designed and published in a hurry because all of a sudden the federal government was getting out of the lottery business and the interprovincial corporation was going to move into the \$10 game. It does take time to put a good product together and this one was done in a hurry.

There we have 10 \$1 million prizes and our next prize down is \$10,000. Uniformly people say, "That is not quite right; we do not like that," and we are listening and we are doing something about it. From a marketing point of view the more winners we have the better off we are. Even if it is a \$50 bill, they like to win.

The other Saturday I was in the Color Your World store on Highway 24 and I saw they had Provincial tickets. I had not bought my Provincial ticket for the current draw so I said I would have one. It has a scratch-off feature. I scratched it off and I won a free ticket. It is the first thing I have ever won in a lottery. I thought it was tremendous.

But we are listening. Those are the exact type of comments. Again I say I think you should be in one of our focus groups because you are hitting on the very things that we are hearing. That is the type of thing we are listening to and the very thing we are trying to solve.

Mr. Ruston: Just in my own area in the last two or three weeks a young fellow won \$5,000. I know he always buys two or three Wintario tickets--he plays strictly Wintario. He had been laid off at Chrysler for four or five months, he is back to work now. But \$5,000 like that is really a great help to someone, yet if you make that \$100,000 it means there are 19 guys who are not going to get it. I guess you are aware of this and it is just getting it administered.

Mr. Morris: One interesting comment, in doing focus groups recently we were getting quite often the comment, "\$100,000 is a nice prize; I could pay off my mortgage or I could buy a house with \$100,000." We went into Vancouver for some focus groups because these games are national and we want to get national reaction. Out in Vancouver somebody said, "Where can you buy a house in Vancouver for \$100,000?" Out there they thought the prize should be \$200,000.

Mr. Charlton: Just a couple of very brief questions to follow up on some of the things the chairman was asking this morning. The granting of the moneys is totally handled by the government?

Mr. Morris: Correct.

Mr. Charlton: Do they consume any of the money you turn over to them in the administration of processing and giving out the grants?

Mr. Morris: I have no idea.

Mr. Charlton: You have no idea whether or not the government actually gives out the exact number of dollars you give them or whether they consume some of it?

Mr. Morris: We do not sit down and do an audit. We have given over X number of dollars; we just do not check up to see if the government gives it out in grants. I do not know. I must confess that apart from the advertising value that we can get from publicizing a grant, we do not sit and study the grants and where they go.

Mr. Charlton: The other thing I wanted to ask you: you mentioned this morning that you do not comment at all on the grants. The Brights grant was mentioned this morning and I do not know if anybody has had any feedback on that. But assuming that in the course of your focus groups or any market studies that you do or in any polls you do in terms of public reaction to lotteries and so on, if you found that grants the government had given were affecting your sales badly in a certain area of the province, would you then comment on that grant or those grants?

Mr. Morris: I think I would, in those circumstances.

Mr. Charlton: Do you ever comment the other way around if you find that a grant is helping your sales in a particular area?

Mr. Morris: No.

Mr. M. Davidson: You just utilize it for sales promotion?

Mr. Morris: Yes.

2:40 p.m.

Mr. Chairman: I want to pursue, just for a moment, some of the matters we raised this morning. In going over the lists, there were four under the Ministry of Agriculture and Food that were given to the private sector. Would you not be very susceptible to criticism along the lines that Mr. Charlton explained?

Here we are using a public lottery; the whole lottery mechanism is run by a government agency--promoted, funded, researched, put out there--and we are turning over money to individual corporations in the private sector. How would you explain that to a focus group?

Mr. Morris: First of all in the focus group, we are not explaining anything. We are not there to explain in a focus group. We are there to listen. In fact, when I sit in a focus group, or any of my staff sits in a focus group, other than the actual person who is conducting the focus group, they do not know who we are. We are just persons sitting there. Because it would completely destroy the validity of the focus group if they thought that was the general manager of the lottery corporation. Instead of talking about the aspects of the game and so on, you might get an entirely biased feedback.

So we do not sit there and give them explanations. We are sitting there to listen and to learn.

Mr. Chairman: This morning in your opening remarks you mentioned that when you visit these local municipalities you use whatever positive aspects that there are about the granting process. You thus promote the purchase of lottery tickets. On the other hand, you just ain't around when there are negative aspects about such grants. It is understandable.

Mr. Morris: For instance, if I was out tonight, and I will be out tonight--

Mr. Chairman: In Madoc, yes.

Mr. Morris: --in Madoc for the Wintario show, and if I got a number of people coming up to me afterwards and saying, "Do you know that this sort of grant and that sort of grant was made and we think this is terrible?", tomorrow I would probably communicate that to somebody in the ministry.

Somebody asked this question a few minutes ago. Yes, if I get negative comments out there, certainly I am going to turn them over. Positive comments--if I was to see my minister on occasion, I might say such-and-such a grant was well received, but I would not make it a point. I guess we are somewhat like newspapers. We are fast to report bad news, but are not quite so quick to report good news.

The grant function really is not in our hands. We try to stay away from it. The last thing in the world we want is to go into a community with the show, for instance, and hold ourselves out that we are in any way the dispenser of the funds or the grants. That is not our role.

We have been able to do this very well. People realize it is from Wintario that they got a new roof on their arena, or something of that nature. But I think they do realize this; certainly the fellows who are the chairmen of the arena committee who apply for the grant know it. They understand that the grant does flow from the ministry, and does not come from the lottery corporation.

Mr. Chairman: Let me pursue a few other items with you, in part coming out of some of the comments you made in your opening remarks this morning. You alluded to the remark that lotteries are often referred to as a tax on the poor. You made the argument that in fact people who buy lottery tickets come from all income groups. One of your statements was to the effect that the largest participation category of our players consists of those within the \$20,000 to \$34,999 income range. But you do not really get very definitive about it.

I am not surprised, for example, that poor people in our society do not run out and buy \$10 lottery tickets every day. But have you done any studies on how many people in lower income levels are consuming Wintario tickets, for example?

Mr. Morris: What our research shows, Mr. Chairman, is that approximately 83.8 per cent of people with incomes under \$10,000 approximately have, at one time or another, purchased a Wintario ticket. If you move up to the category of \$10,000 to \$20,000 it is 86.3 per cent; from \$20,000 to \$35,000 it is 86.5 per cent; from \$35,000 plus it is 83.9 per cent.

Given this type of research I think you can appreciate that we are going here from a low of 83.8 to a high of 86.5 per cent. That is statistically significant. We do say that the highest number is in that \$20,000 to \$35,000 range. But in this type of survey, my conclusion is that we pretty well, even-Stephen across all salary groups, have people buying tickets.

What our point here is it is not just the people with low incomes who buy tickets. Yes, they do buy tickets. But it is amazingly level through all income groups.

Mr. Chairman: I would look at the same set of numbers and take a slightly different interpretation. I would be saying it makes very little difference whether they have a large disposable income or next to no disposable income--a large percentage of the population is buying lottery tickets.

Mr. Morris: Exactly.

Mr. Rowe: Mr. Chairman, if I may just interject, are they regular buyers?

Mr. Chairman: That is just what I wanted to get to. Do you have any further breakdown?

It would not surprise me, for example, that once a year somebody who had a very small amount of disposable income might purchase a Wintario ticket as a gift or for their big fling on the town. That does not seem to be very serious at all.

If, on the other hand, I was able to determine that people in low income groups were regular buyers of Wintario tickets--in other words, they were using what limited disposable income they had to gamble then I might find that statistic a little alarming. Have you done that kind of a survey?

Mr. Morris: Our research shows that all groups buy and no group tends to buy a lot of tickets.

Mr. Chairman: What studies have you done in that regard? Do you know who is the habitual purchaser of lottery tickets in Ontario?

Mr. Morris: I do not think there is any one group. Five or less tickets a week counts for 79 per cent of our ticket sales.

Mr. Chairman: Five or less a week.

Mr. Morris: Five tickets or less a week will account for 79 per cent of our Wintario sales.

Mr. Chairman: So, again, it is the same number. Maybe it is just the way we are looking at this table. But I am a little disturbed by the statistic that 79 per cent of your purchasers are buying up to five tickets a week. What kind of tickets are they buying?

Mr. Morris: Those are Wintario tickets. We do have a statistic that in Ontario the per capita sale of lottery tickets per year is about \$38. There is a film about to come out from the National Film Board where they quote a figure for Canada that the average is \$40 per year.

All these numbers, I think, tend to reinforce the idea that there is no one small group buying a lot of tickets and putting themselves at a real disadvantage. Yes, there are probably some individuals who go crazy and buy a lot of tickets at any one time, but those people are certainly in a very small minority.

2:50 p.m.

Mr. Chairman: In essence, my reading of your statement this morning and the slides that you presented is that you have roughly 80 per cent of the population or better as regular customers of one of the lotteries that are available. That is rather surprising.

Mr. Morris: We did not say "regular;" we said "they have purchased."

Mr. Rowe: There's a difference.

Mr. Chairman: At any rate you have certainly made the numbers racket respectable and socially accepted in this province.

There was one other thing which came through on a couple of occasions in your opening remarks this morning, and that is this comparison of operating expenses. Do you include the advertising, promotion and research campaigns as part of your operating expenses?

Mr. Morris: The advertising expenses are one of our operating expenses. We show them as a separate item.

Mr. Chairman: Is there any reason why you show them as a separate item?

Mr. Morris: Because some people are concerned and we would like to see them as a separate item to see how much we do spend on advertising.

Mr. Chairman: Because in part, to be comparative with the operating expenditures that you have done with other lotteries, it is my understanding that some of those have folded in the advertising costs, and so their operating expenditures are quite high and yours, on the other hand, appear to be quite low.

Mr. Morris: What we have done is we carry ours as separated so that people can see our administrative expenses and our advertising expenses; and that's the way we show them. However,

other jurisdictions sometimes do lump them all together. Where they have lumped them all together, we then combine ours to put them on a true comparative basis.

Mr. Eichmanis: If I may interrupt here, Mr. Chairman: On page 12, where you are dealing with your own operating expenses, you exclude commissions. Then, on page 15, when you are dealing with Cash for Life financial statements, you include the commission expenses.

Mr. Morris: That's because Cash for Life do.

Mr. Eichmanis: But what I'm saying is, aren't you creating two different numbers?

Mr. Morris: No. On page 12 we are talking about our operating expenses exclusive of advertising. When we go to--

Mr. Eichmanis: Exclusive of commissions.

Mr. Morris: Pardon me, inclusive.

Mr. Eichmanis: Exclusive. Excluding commissions. On page 12, you say "Operating expenses excluding commissions." And on page 15 you include commissions when you are dealing with Cash for Life.

Mr. Morris: I'm sorry, Mr. Eichmanis. Our operating expenses are excluding commissions but including advertising.

Mr. Eichmanis: But I'm saying, the question of advertising aside for a moment, if you do exclude the commissions when you are dealing with your figures, but then include the commissions dealing with Cash for Life, doesn't that create a slight distortion, or am I wrong?

Mr. Morris: The reason we did that is because Cash for Life include commissions in their operating expenses. So to make the two numbers comparable we had to put ours back in.

Mr. Eichmanis: No, but you exclude the commissions.

Mr. Morris: When we present our own statements, we have operating expenses, we have commissions, so that both those numbers can be clearly seen. When we turn to Cash for Life I believe that they include commissions in their operating expenses. So if we are going to make our numbers comparative, we then have to move our commissions in with our operating expenses so we are comparing apples and apples.

Mr. Eichmanis: I assumed that you would do that, but I still cannot understand why on page 12 you exclude the commissions.

Mr. Morris: Here we were talking about operating expenses. In our operation we do not view commissions as operating expenses. We view them as a selling expense. Cash for Life do include commissions with their operating expenses, so we put ours back in to compare ourselves. In that particular paragraph we put our

commissions in with operating expenses so we would be comparing two like numbers.

Mr. Chairman: In another related financial matter, would you run over once again how the moneys are kept, how they are turned over, who gets the use of the money, what use is made of whatever capital you accrue, during the course of a year?

Mr. Morris: Any money that is put into a prize fund is kept in the prize fund until it is disbursed. At the end of the year when we can move money from the current prize fund to the bonus prize fund, we move it over to a separate bank account, but it is always designated as a prize fund bank account.

Any other cash that results after we have paid our expenses we immediately pay over to the Treasury.

Mr. Chairman: So it goes immediately to the Treasury.

Mr. Morris: Yes. Wintario we pay over biweekly and Provincial we pay over monthly. I know it seems to me that I am always signing a cheque with a covering letter saying, "Here are some more proceeds for you."

Mr. Chairman: Do you have any idea of what kind of capital in total changes hands in that way, what kind of revenue is generated?

Mr. Morris: This year the total revenue that will flow into the corporation would be in the nature of about \$400 million. That is our gross sales figure that we are projecting for this year.

Mr. Chairman: That money is transferred on a regular basis twice a week?

Mr. Morris: The money comes in, we put money aside into the prize fund to cover the prizes, we pay our expenses, and the remainder is then immediately paid over on a biweekly and monthly basis.

Mr. Chairman: That was not my understanding. The information which we have is that the net transfer will be in the order of \$105 million to \$110 million. Is that right?

Mr. Morris: That is the net amount after we have paid the prizes and the expenses that will be paid over to the government, yes.

Mr. Chairman: I see. Okay. That is fine.

Mr. M. Davidson: Just to follow up on that, the accumulated interest in the fund for prizes, what happens to it?

Mr. Morris: It comes back to the corporation as an income item for us. It eventually is passed over to the Treasury.

Mr. Chairman: So they've got you coming and going.

Mr. Morris: Yes. It is used to pay grants.

Mr. Chairman: Okay. I want to conclude the questions that I have on a philosophy type thing.

I am not sure that all members of the Legislature have accepted the concept of the government running a lottery. But even if we do, do you spend any time, do you give any consideration to the amount of time, effort and money that you obviously put into game design, cash flows, the need to set up a new one, the kind of advertising budget that is put out?

Does anyone in the corporation have a little twinge every now and then that maybe a government agency really should not be advertising quite that hard dreaming up new schemes for new games, working quite so hard on an analysis of who buys lottery tickets and seeing what devices you can put to work out there that will make them buy more? Is that a matter of concern to the corporation, or is it just kind of a job that you do?

Mr. Morris: Mr. Chairman, I accept the fact that the Legislative Assembly of this province passed an act that created a lottery corporation and gave it the job of running lotteries to raise money. Having accepted that is what the Legislature wanted the corporation to do, I must say that I and my staff spend all our efforts to maximize those revenues from the lottery corporation.

It is interesting there was a paper published by Professor Johnson from McMaster University on, I guess, what is the role of the lottery manager. He poses a number of alternatives. But I think he comes to the conclusion the role of the lottery manager is to maximize the profits of the lottery operation.

Mr. Chairman: Do you not think a little unusual--I find it something which I cannot quite reconcile--that on the one hand, this morning you were quite adamant that you did not want to have anything to do with casino gambling--ministers of the crown have certainly gone to great lengths to explain that was sinful, bad, not good, and they were not going to do it anyway--yet, on the other hand, we have a crown agency pumping away like mad to see if we can get people to gamble more?

You seem to have a clear concept in your mind that certain things are not only legal but good to do. You just reiterated your commitment to doing it well. Can you reconcile that?

Mr. Morris: First of all, when you asked me about casino gambling this morning, I think my response was that I have no mandate to do anything about casino gambling in the province of Ontario. However, we do have a mandate to operate lotteries for the government and therefore we try to do the best job we can in carrying out that mandate.

Personally, I feel that raising the most money we can through the operation of the lotteries--and I underline the operation of lotteries, I am not talking about casino gambling, offtrack betting, bingo games or any of those other things, we are

talking strictly lotteries--I view it as my job and the job of all my staff to maximize the revenues from the lottery corporation.

3 p.m.

I think we have done a good job and have exercised good taste in our advertising. We do not go out and try to paint pictures of dreams for people in our lottery advertising. We try to do everything in good taste. I would not suggest to you or any of your colleagues that we would go to any lengths to extract the last nickel. I would like to stress that everything we do we try to do in good taste.

Yes, I work hard and all my staff work hard to come up with the best game designs we can so that we can maximize our sales. I would not want to go out and purposely design a campaign that I know would just be dynamite at getting every widow's last dollar from her inheritance or anything like that, no. Certainly we try to do it in good taste and our advertising budgets run around 2.5 to 2.6 per cent of the sales dollar.

Mr. Chairman: You do recognize, though, that this lottery corporation has turned several corners in its growth and development. The original idea was very simply that there were tickets being bought outside of the province and the government did not like that and therefore they ought to move in and have a lottery run by Ontario.

Now it has gone quite a distance from that in terms of not just advertising aggressively on a variety of lotteries but in fact putting terminals in places where people are just frequenting, they are walking by. I really see quite a difference in the philosophy of it all and I am not quite clear that I can make the distinctions which you make.

Mr. Morris: Mr. Chairman, if you are going to be in the lottery business I think you are in the lottery business; you run various types of lotteries. I do not think it is for us to make a decision that we only run one game. Again, I say I view it as our obligation to maximize lottery revenues and if we come up with interesting games that people like to play I do not see that as something evil.

Mr. Chairman: In other words, that is not really a worry or a concern of the lottery corporation?

Mr. Morris: I am not sure what you mean by that statement.

Mr. Chairman: You do not really care who buys lottery tickets or how big a share of the market is out there. As a matter of fact, you probably care the other way, that you would like to see more people participating in various lottery schemes and make it more convenient for them to do so.

Mr. Morris: Yes, but I would never want to see anyone buy tickets to the extent that it cripples them financially or anything like that.

Mr. M. Davidson: But how can you be sure that is not going to happen?

Mr. Morris: I can never be sure. If I were producing aspirins I could never be sure that while I might bring benefit to millions there might not be somebody who may consume a bottle.

Mr. Chairman: Later we will have the LCBO and we will get into that.

Mr. Morris: I am sure that is a problem they have to wrestle with all the time.

Mr. Eichmanis: On page 10 of your remarks you indicate, "We anticipate that the lottery profits will continue to rise." I presume that is in the foreseeable future. I was wondering if you could enlighten the committee on what that rise will consist of, whether you see it as a sort of exponential growth in lottery profits or whether you see a marginal growth. Just what does that rise consist of?

Mr. Morris: I do not expect an exponential growth, if you are meaning a rise like that, no. I do expect to see us make a normal, healthy increase each year.

Yes, we have had some dramatic increases in the first five years. That will not go on. We have come up to a fairly high level. If the population of the province were to increase, or our age mix increases, all these things can have an important bearing.

For instance, as our population ages, our statistics show that it is people in their late 30s or early 40s who tend to buy more tickets, or even buy tickets, which people in their early 20s do not. They are not really interested in buying lottery tickets.

Mr. Eichmanis: I was wondering if you had any kind of projections, or you had an actual number to indicate, say a five per cent increase?

Mr. Morris: No, we do not.

Mr. Eichmanis: When you appeared before the estimates committee, the number that was mentioned previously, \$105 million to \$110 million, was the projection for profits for this coming year, if I am not mistaken. Do you see a substantial increase above \$105 million or \$110 million, say, over the next five years as each year you get a little higher? Do you see, after a number of years, a kind of stabilization at \$100 million, or some sum?

Mr. Morris: Five-year projections, five years out in the future, are always difficult to make. I can see a number of factors that would lead me to think that we will increase our profits each year as we grow.

I could mention one, the ageing of the population. As people get out of their early 20s they tend to start buying lottery tickets. I think that will have an effect on us.

I think as we expand our Lottario game, as we acquire more sites, that could have a beneficial effect on our profits.

If you can tell me what the future is for the car industry, or the farm implement industry then I would maybe be able to give you more indication what my ticket sales in places like Windsor, Oshawa and Brantford might be. These are all things that affect us.

Mr. Eichmanis: It would be a little different, though, with a car. It would be a little different in the sense of what you are doing with the discretionary income. It is a far more risky kind of game than you are into.

Mr. Morris: What I am suggesting, Mr. Eichmanis, is that if they do not have discretionary income because they are not working in the automobile plants or the farm implement plants then, yes, it would have an adverse effect on my sales. But given a normal, economic climate, given the fact that we will continue to conduct research and monitor what the public wants, I can see us increasing sales.

Mr. Eichmanis: You already mentioned a study made by Mr. Johnson at McMaster University and his contention is that one of the ways that lotteries tend to increase their sales is by the introduction of new games. It seems to me that either this year, or in the next two years, if you do have a kind of peaking of your sales then that will be an opportunity for you to introduce a new game. Is that something you can look at?

Mr. Morris: We are always working on new game designs. By new game design I am talking about the type of thing where, for instance, last November our Wintario was redesigned so that the numbers changed, the prize structure was slightly different. It went to a weekly game.

The provincial ticket game was changed back in January. We found out that was not a great success from the point of view it did not go over so well. It has not hurt sales that much but people just generally did not like it that much. We have that in hand. We are going to be coming out later on with a new provincial game. We are going to be coming out with a new Super Loto game. I think they will be attractive games in the market place.

Mr. Eichmanis: To get back with numbers again. It seems to me that it may be useful if you could say with any clarity that over the next five years you are going to increase your net earnings by a certain percentage, and whether you can say that with any confidence. From what you said you cannot really do that.

3:10 p.m.

Mr. Morris: That's right. I'll be quite honest with you. I'm always very skeptical of anybody who says, "Over the next five years, we are going to increase this, this and this every year." If they can control their future like that, why isn't it double that?

Mr. Eichmanis: I know in some instances government bodies

set a target. In the case of, for instance, the LCBO, the government sets a certain target that they want to get from the agency. Does the government set some kind of target for you that you should get each year?

Mr. Morris: No. In the business of forecasting the future, I am sure that two years ago the president of General Motors, the president of Ford could not have forecast the profits would have been such as they are this year for their companies.

Mr. Eichmanis: It is time of economic downturn for sure.

Mr. Chairman: Gentlemen and lady, we thank you very much for coming before the committee. It is part of our exercise to take a look at all agencies and to ask them to come in on a selective basis. If we have need of more numbers, more facts, more figures, we will call on you before we submit our report to the Legislature.

Thank you for the opportunity of having this exchange with you today. If you have any questions of us, feel free to contact us and I hope that we are quite free to contact you as well.

Just one matter before the committee adjourns today: On more than one occasion now we have raised matters not really having to do with the lottery corporation per se but with the ministry. We do have Mr. Webber here, who is the executive director of the finance and administration division for the Ministry of Culture and Recreation. Is it your desire to ask him any questions?

Mr. M. Davidson: Perhaps one or two.

B.F. Webber, sworn.

Mr. Chairman: We will take the questions in the order in which they were raised. Then we'll have the other members ask their questions on it too.

Do you have an explanation for us as to why Brights Wines Limited received \$225,000 over three years to increase the acreage of wine grapes; new selected varieties will be planted in southwestern Ontario, also studies will be conducted on new cultivars for the Niagara region?

Mr. Webber: As I am sure the members of the committee are aware, cabinet some time ago adopted a resolution that certain proceeds from The Provincial lottery particularly would be allocated among various ministries. The Ministry of Agriculture and Food was given an amount within that appropriation. I am not certain how much it was, but I think you will find the Ministry of Agriculture and Food has made the decision to fund that project.

Mr. Chairman: So you didn't have anything to do with that one either?

Mr. Charlton: Could we just follow along on that for a minute? When the cabinet made the decision, I thought it was made clear that the ministries were supposed to be allocating grants

from The Provincial in health-related areas to help research of some kind. Were there not clear guidelines set out?

Mr. Webber: I am not certain there were precise guidelines, but it seems to me from recollection the outline of the areas included health. It also included such areas as environmental protection or enhancement and others of that type. I am sorry I do not have the precise (inaudible), but I think it might have been more along the environmental line.

Mr. Chairman: Let me pursue this a bit.

There was that grant. There was a production feasibility study on chick peas in southwestern Ontario for processing which went Libby McNeill and Libby of Canada Limited in the order of \$75,000; one on the rabbit as an alternative source of meat, development of economical diet for the growing rabbit, to Canada Packers Incorporated for \$50,000; on the freezing and nonsurgical transfer of cattle embryos to Via Paks Corporation in the order of \$60,000; and for the August planting of strawberries to Willoughby Family Farms, Smith's Falls, for \$7,735.

As you say, this may well be that you just turn the money over to the Ministry of Agriculture and Food and they decide who gets it. But did the cabinet not decide any guidelines in regard to whether these would go to the private sector? If so, would the information gathered, or the studies that are done, be shared throughout an industry, or what?

It strikes me even if I were accepting the idea that the private sector ought to get money from the lotteries, there ought to be some clear guidelines about who would get it, and if I were Andres Wines or anybody else's wines, I would like to know why Brights got \$225,000 and I got nothing.

Mr. Webber: Mr. Chairman, I would very much like to aid the committee, but the funds from The Provincial and Super Loto, by direction of cabinet, do not pass through the Ministry of Culture and Recreation at all, but go directly to the Treasurer. Then cabinet makes a subsequent decision as to the allocation of those funds. My responsibilities do not include any purview over that.

Mr. Chairman: And you are not aware of any guidelines in this regard?

Mr. Webber: The only thing I could say of a general nature in that regard is that I am certain those ministries must have made very compelling and convincing arguments to cabinet to secure that money in these days of constraint when it is difficult to get money for any purpose. Not in any way wanting to duck the question, but it simply is not within my realm of responsibility in that regard.

The Ministry of Culture and Recreation receives the funds from Lottario and Wintario, and then dispatches them to the Treasurer, and is, on an annual basis, given by cabinet, the government, and the Legislature through the estimates debate, an allocation of those lottery funds to spend on cultural and

recreational purposes. The others I really cannot help you on.

Mr. Chairman: As someone else mentioned previously, every time a Wintario grant is awarded, and it is successful, the minister makes that announcement. I must have missed it. I follow these pretty carefully. I do not remember the grant to Brights Wines ever being announced. Do you know if it has been?

Mr. Webber: It came as a complete surprise to me this morning that it had been made. In fact, I went to see Mr. Eichmanis right away and said, "Could you please tell me?", because I thought for a moment that a member of the committee was suggesting that it had been a Wintario grant, which of course it had not. But no, I was unaware of it.

Mr. Ruston: So Baetz does send all his when they are approved (inaudible).

Mr. Chairman: I do not even remember the Minister of Agriculture and Food's announcement.

Mr. Ruston: No, he does not, but Baetz does.

Mr. Chairman: I am sure somebody slipped up over there and tomorrow there will be a big announcement.

Mr. Eichmanis: Mr. Chairman, let me direct you. I have included within the batch of material that was given to each member the orders in council that give the criteria and direct the specific amounts of moneys to each ministry. As you will notice from those documents, it states that the Lieutenant Governor In Council may direct for the support of health-related and environmental projects as the overlying objective of that program.

Mr. Chairman: Is this wine going to make us healthier, or what?

Mr. Charlton: Although the representative of Culture and Recreation is obviously not going to be able to answer the question, it seems to me before we make our report on this whole area, we attempt as a committee to find out from the secretary of cabinet, or someone, what specific things should be met within those guidelines.

Second, I think we should find the answer to the question you raised--whether or not whatever is learned from these projects financed by these grants is going to be available on a wide basis to others in the same industry, whether it be wine or strawberries or whatever else.

3:20 p.m.

It certainly seems to me that there may be a rationale for grants to the private sector for the development of particular food strains or whatever, but certainly not on the basis that the private company is going to have exclusive use of whatever they come up with. I would like to see something clear and definitive

about how that information is going to be fed back to create a real public benefit.

Mr. Chairman: With the concurrence of the committee I would ask John to contact the ministry involved here. From my reading of it, there appears to be only the one ministry which has done this.

It does rather stand out because the vast majority of these are at least easily identifiable as research projects of some kind or other conducted by someone working at a university or by a university facility. It surely does stand out when five in the one ministry are going clearly to individuals or to firms for purposes where it is difficult to establish what the research purpose might be. If I have the concurrence of the committee, we will attempt to do that.

I suppose we should get a little clearer on this. I would like to know if there are guidelines which endorse the proposition of providing funds raised by the lotteries to the private sector as opposed to anyone who might be doing public research; is there a requirement that such research be published and available on an industrywide basis or is it exclusively for the use of Brights Wines or whomever.

In other words, what are the terms and conditions of it and, if we can, does the cabinet have a policy on the allocation of lottery funds to the private sector?

Mr. M. Davidson: Perhaps Mr. Webber can assist us in another way. I believe it does have something to do with the Ministry of Culture and Recreation. Can you outline for us the policy of the ministry at the present time in dealing with capital grants?

Mr. Webber: Yes, Mr. Chairman. I will comment on that as best I can.

As you know, in the fall of 1978 a moratorium was declared on the accepting of new capital grant requests by the ministry. Since that time we have been in the process of doing two things: first of all processing some of those multi-year projects which has requests outstanding as of the day the moratorium was announced.

That process is now, I think, perhaps in broad terms, three-quarters finished and the majority of that obligation on the part of the government to those organizations that in good faith had been applying and working toward fund raising, et cetera, would be paid out in the fiscal year 1981-82.

At the same time, the other major activity that has been undertaken is, as I am sure the members of the committee are aware, a very significant review of the communities in the province and the views thereof relating to the effectiveness of that capital program and what the ministry should try to do in broad terms in a new capital program at such time as the fiscal resource would allow this to be mounted again. That review culminated in a report last March, I would guess, which was called Places to Grow. I am sure most members of the committee have that.

Since that time members of the consulting staff of the ministry have been in very active touch with communities across the province in response to a paper that was further released by Places to Grow called a directions paper. That review is also complete at this time and the recommendations to the minister are now being formulated by the results of the first review which was the capital priorities review, and the second review which is a much more narrowly-focused review in terms of trying to come up with very specific kinds of criteria and objectives and programs within the new policy announcement.

I guess it would be fair to conclude that some very positive comments came to us throughout both reviews about the achievements of the old program. Also there were some suggestions that in the new program, given the more limited financial resource which was likely to be available, that perhaps some focusing of the need and the specific objectives of the program might be in order.

The five years or so experience with the first program should be sufficient to give both the ministry and the client personnel some better idea of the type of program that should be mounted. So I would anticipate that the ministry will be in a position very shortly to make an announcement on the new program.

Mr. Chairman: Do you have any idea of the amount of accrued money that has been set aside now?

Mr. Webber: I guess, off the top of my head, I would have to say that the income of the lottery corporation which gets from Wintario and Lottario is now running at a combined total of about \$80 million per year. All of that is being forwarded through our ministry to the consolidated revenue fund. At this time I would not have any idea of the precise level of the balance. I would have to check on that, but it is quite a healthy balance.

In this fiscal year, as you know from the estimates, I believe some \$48 million has been set aside for Wintario spending. The minister has made some commitments relating to the expenditure of Lottario funds for specific purposes. I believe the figure of \$11 million is a commitment to the Royal Ontario Museum, for example.

The general objective, of course, is to maintain a sufficient reserve that if, indeed, the lottery revenues, for some unforeseen circumstance, should turn downward, all the existing commitments that the government has made in the various programs to the various clients will be met without undue distress.

Mr. Chaيمان: So, for ball-park figure purposes, it would probably be somewhere around \$150 million to \$200 million?

Mr. Webber: I would not think there is that much on hand, given that very substantial sums have been paid out, something in the order of \$250 million. I would have to check the figures.

Mr. M. Davidson: These were committed.

Mr. Webber: Yes, that had been paid out over the last four years to such projects.

Mr. Chairman: But the upshot is that general revenue then has had the use of that capital over this time period. As a matter of fact, just slightly before next spring this log-jam will break.

Mr. Ruston: Definitely.

Mr. Chairman: I do not know how Hansard records a smile but there was one.

Mr. Webber: Mr. Chairman, I could not possibly guess as to the moment of maximum social advantage that would be taken.

Mr. Chairman: Social advantage.

Mr. M. Davidson: Just on a rough guess on your part, and I know you cannot give us an effective date, but when could persons who would like to get some of this capital grant money look forward to the opening up of the receiving and processing of new applications?

Mr. Webber: Mr. Chairman, I would like to first of all make clear that there has been absolutely no breakdown in the communication, or gap in the communication between the clients of the ministry in all parts of the province. We have had many conversations with all client communities, all of whom are telling us that they have very worthwhile projects all ready to go. We have had quite active consultation in that respect and I would say that all of them are, in some way, informally or otherwise, registering their place in the queue, so to speak, for the day that the new program opens.

Mr. Chairman: I feel the pain already. Are you going to be cutting more ribbons?

Mr. Ruston: I can see 1979 coming back all over again.

Mr. M. Davidson: In Cambridge there are a number of ethnic communities. For the past five or six years they have been looking to the development of the commonly called International Village, an area where each of them could build their own hall, so to speak, so that all of the halls would be in a similar area. They will be pleased to know that they have been in communication. I do not know why they keep coming to me and telling me they never hear anything back. But they will be pleased to know that someone is communicating with them even though they are not getting the message.

Mr. Rowe: May I just make a comment in connection with the freezing of the grants program?

I am in favour of it, because I think we have many communities that have gone into these projects. I think we have built enough arenas around the bloody province that we better have a look and see before we allow too many more to get into such projects, whether they can afford to operate them or not. That

great vacuum has been pretty well filled. We have new arenas in places where, if the money were coming from the taxpayers, they could never really have been afforded.

Mr. Chairman: Are you inferring this money is not coming from the taxpayer?

Mr. Rowe: Not directly, no; not in the form of taxes.

Mr. Eichmanis: I noticed that in the new program, rather than being interested in material kinds of things, concrete buildings and so on, they have been doing things like the quality of coaching and so on, and that kind of thing.

Mr. Rowe: We are talking about capital grants.

Mr. M. Davidson: Certainly, to comment on what Russell has said, he may be quite right about the building of new and great community halls, arenas, and various things. But I think he should remember, part of that program was a result of the Ministry of Labour closing down quite a number of these arenas.

Mr. Rowe: It was fortunate in timing, because that money was available, you bet it was. But there are communities with new arenas that never had one to be condemned before.

Mr. M. Davidson: As I recall, that was between election periods also.

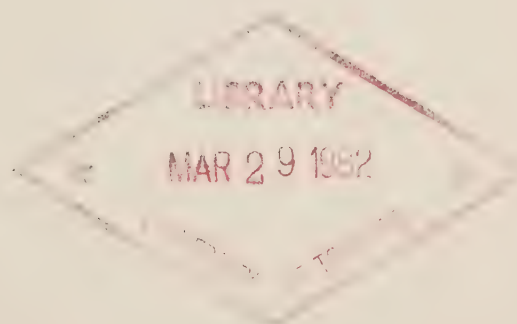
Mr. Chairman: Okay. The hot stock tip for today is go out and find out who makes blue ribbons in Ontario and buy it up.

The committee adjourned at 3:32 p.m.

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STANDING COMMITTEE ON PROCEDURAL AFFAIRS
REVIEW OF BOARD OF OPHTHALMIC DISPENSERS
TUESDAY, SEPTEMBER 23, 1980
Morning sitting



STANDING COMMITTEE ON PROCEDURAL AFFAIRS

CHAIRMAN: Breaugh, M. (Oshawa NDP)
VICE-CHAIRMAN: Davidson, M. (Cambridge NDP)
Charlton, B. (Hamilton Mountain, NDP)
Kennedy, R.D. (Mississauga South PC)
Mancini, R. (Essex South L)
Rowe, R.D. (Northumberland PC)
Ruston, R.F. (Essex North L)
Sterling, N.W. (Carleton-Grenville PC)

Research Officer: Eichmanis, J.
Clerk: White, G.

Witnesses:

From the College of Optometrists of Ontario:
Baker, Dr. I.
Hansford, Dr. R.R.

From the Ontario Association of Optometrists:
Langer, Dr. M.
Peppler, C., Executive Director
Thompson, Dr. H.

LEGISLATURE OF ONTARIO

STANDING COMMITTEE ON PROCEDURAL AFFAIRS

TUESDAY, SEPTEMBER 23, 1980

The committee met at 10:19 a.m. in committee room No. 2.

REVIEW OF BOARD OF OPHTHALMIC DISPENSERS

Mr. Chairman: We have a quorum. Mr. Mancini, you had a motion?

Mr. Mancini moved that the committee sit in camera for several minutes to discuss some private matters.

Mr. Sterling: Could we move out to another room?

Mr. Chairman: Yes, I think, discretion being the better part of valour, the committee will move out.

Are we agreed that the committee will adjourn for a few minutes to the caucus room?

Motion agreed to.

The meeting continued in camera at 10:20 a.m.

The committee resumed at 10:38 a.m. in committee room No. 2.

Mr. Chairman: My apologies to all of you who have been waiting. We had a little procedural matter to clear up, and I hope we did.

This morning the hearings are on the Board of Ophthalmic Dispensers. The first testimony will come from the Optometrists Association of Ontario.

We have rearranged the furniture in here a little bit because there are a number of people who want to appear, and we are trying to get it set out so you can all reach a microphone easily. When you do come forward, would you just sit along that row of desks and try to find yourself near one of the microphones so that Hansard can pick it up?

It is my understanding that Mr. Peppler is appearing. Are there others? Dr. Langer and Dr. Thompson. Would you gentlemen come forward and just assume a seat there?

I should inform all of you as well that the committee, in another matter, undertook to investigate all the ramifications of people testifying before the committee here. As part of that, we decided that witnesses who do give testimony before the committee in this session will be asked to do so under oath. I am going to ask the clerk of the committee to swear in the witnesses.

C. Peppler, sworn.

Dr. M. Langer, sworn.

Dr. H. Thompson, sworn.

10:40 a.m.

Mr. Chairman: It is my understanding that you have a brief which you want to present to the committee, you want to make a little presentation, and you are prepared to take some questions from the committee. Is that correct?

Dr. Langer: That is correct.

Mr. Chairman: You may proceed.

Dr. Langer: My name is Marvin Langer, and I have been asked to represent the Ontario Association of Optometrists. Our association thanks you for the invitation to appear before your committee, whose purpose, as we understand, is to review the Board of Ophthalmic Dispensers of Ontario.

Since this board is created by the Ophthalmic Dispensers Act, it is our intention to discuss the board in the context of existing statutory requirements. Where possible, we will suggest changes which we consider would be improvements in the public interest.

At the outset, we would like to be clear that we do not appear before this committee in any adversary role with respect to ophthalmic dispensers or opticians. Indeed, optometrists and opticians have had long and usually mutually beneficial relationships over many years.

Optometrists became licensed in Ontario under the Optometry Act of 1919. Subsequent to 1919, opticians were licensed after taking their separate program under the educational jurisdiction of optometry. This prevailed until the Ophthalmic Dispensers Act of 1960-61.

The purpose of this presentation is to identify deficiencies in the existing system governing ophthalmic dispensers. Of necessity, therefore, this emphasizes negative aspects of organization and practice. None the less, we would emphasize that optometry recognizes and supports the fact that opticians have an important technical role to play in the overall system of vision and eye care in Ontario.

Our purpose is to assist them to carry out their role of filling the prescriptions of optometrists and ophthalmologists in the most effective way possible to the benefit of the public, our patients.

Glasses are prosthetic devices utilized to treat visual conditions. As such, legislation needs to ensure that proper standards are maintained in delivery of services, in quality of materials, in accuracy of compounding the prescription in strict accordance with the instructions. In addition, legislation must control conduct to protect the public against the unscrupulous

few. There must be a fair complaints procedure for the public, and a fair review procedure to ensure quality and accuracy.

As the Restrictive Trade Practices Commission pointed out: "The technical nature of the product means that we consumers will continue to be relatively uninformed buyers with respect to service and product quality. Ophthalmic products are health care items prescribed and dispensed by those who are in a position of trust."

We propose to review for the committee a number of those areas where we feel improvement can be made in existing legislation governing ophthalmic dispensers. This will be reviewed under the general headings of definition and scope, conduct, organization of the board, and considerations respecting contact lenses.

A. Definition and scope: The ophthalmic dispenser is an optical technician who may carry out his functions independently, or may act as an auxiliary under the direct supervision of the prescriber. Opticians do not initiate care. They cannot diagnose or treat visual problems. They translate the prescription into a prosthetic device in exact accordance with the written prescription.

The existing definition in the Ophthalmic Dispensers Act makes this requirement of conformity to prescription quite clear. However, there has been considerable departure from this requirement in actual practice. It is suggested that the regulations and statute should amplify this intent so as to permit no ambiguity of interpretation. The sections under conduct and contact lenses will further elaborate on this matter.

The definition of ophthalmic dispensing, along with the regulations regarding conduct, should clearly result in delineation of the scope of the optician.

B. Conduct: A number of areas of conduct, in the opinion of our association, need to be controlled by statute or regulation to protect public interest. These include the following:

1. Steering, that is directing patients to a specific practitioner in return for commercial considerations. This is not acceptable conduct in our view. I should add parenthetically that I think in most of these areas of conduct there would probably be general agreement amongst opticians themselves. So I put these forward as general considerations that we feel must be covered by legislation. We do not imply by that these are not matters that opticians themselves would put forward.

Mr. Chairman: Are you saying that these are common practices in the business today?

Dr. Langer: No. What we are trying to put forward is the areas where we feel the legislation must be clear as to how conduct is to be regulated.

Mr. Chairman: And you are saying that these things are not presently within regulation or law?

Dr. Langer: Or not clear enough in regulation and law.

2. Rebates, both direct and indirect, in consideration for referral of clients, is similarly conduct which needs to be prohibited.

3. Prescriptions must be filled in precise conformity with the specifications of the written prescription. Presently there have been frequent departures from such specifications in compounding prescriptions by some opticians. This practice should be even more strongly and clearly prohibited in the legislation.

4. It should be required in all price advertising that the following should be specified: the specific nature of the services provided; the range of powers provided; the quality of the materials; the pricing policy respecting components additional to mere lens power; and limitations in types of lenses and frames available. In other words, there should be full disclosure for consumer understanding and protection.

5. Opticians should only be permitted to advertise those services which they themselves are able to legally provide. That may sound self-evident, but there has been advertising of terms such as, "eye examinations arranged," and we feel this should be proscribed because it is misleading as to function and can lead to steering on the part of the advertising opticians.

6. We support the position of the independent opticians who have recommended that no optical laboratory should be permitted to own or participate in the business of ophthalmic dispensers. Such relationships have too strong a potential for conflicts of interest and for limitation of the exercise of technical judgement in the purchase of materials.

The Restrictive Trade Practices Commission reported that opticians affiliated with optical laboratories purchased from 84 to 95 per cent of their lenses from their affiliated laboratory. Moreover, markups by independent opticians were found to be substantially lower than those of laboratory-affiliated opticians. Both these facts suggest to us the public would be better served if laboratory affiliations were not permitted to opticians.

C. Education: At present there are two educational programs supported by the Board of Ophthalmic Dispensers. One is the full-time, two-year program at Georgian College, and the other is the part-time program at Seneca College. Our primary comment with respect to education is to suggest that there would be advantages to provide in a teaching program of ophthalmic dispensers, field experience in both the optometry and the ophthalmology programs so as to foster better understanding and integration of the three groups.

It would also be advantageous to have cross-appointments from optometry and ophthalmology faculty in the optician program. It should be pointed out that optometry has utilized opticians in

their undergraduate programs in laboratory, clinical or teaching programs for over 40 years.

10:50 a.m.

Any educational institution must establish long-term needs as to numbers of graduates required for their program. In 1960 there were 165 opticians licensed in Ontario. After passage of the Ophthalmic Dispensers Act, with provisions of a grandfather clause, there were 332 licensed ophthalmic dispensers in 1961. The number increased to 614 in 1973 and by June 1979 reached 1,023, an increase of 520 per cent from 1960. This provides one of the highest ratios of opticians to population anywhere in the world.

During this same period the professionals who initiate the services--that is, optometrists and ophthalmologists--increased in number by less than 50 per cent.

It is proposed that a commission be established to determine rational numerical needs to meet future requirements for ophthalmic dispensers. This commission might have a composition of three opticians, one ophthalmologist, one optometrist and one educator.

D. Organization of the Board of Ophthalmic Dispensers: Since the board not only polices conduct, but establishes educational policy and influences entry to the program, it is essential that the board be responsive to the needs of the public and not to any special interest group.

The Restrictive Trade Practices Commission reported that they did not find any evidence that entry was made any more difficult for opticians who were not affiliated with an optical laboratory. Nevertheless, they commented that the suspicion of such abuse was not surprising where all or most of the board opticians have laboratory affiliations.

To prevent potential conflict of interest, we support the proposal of the independent opticians. The majority of the opticians on the Board of Ophthalmic Dispensers should be independent of any optical laboratory affiliation.

E. Considerations respecting contact lenses: Contact lenses involve a great many considerations that do not apply to the fitting of spectacles. As the Restrictive Trade Practices Commission reported, "The main effects of poorly prescribed or fabricated conventional lenses are physical discomfort in the form of headaches and eyestrain, and in the dangers associated with poor eyesight when one is driving a car or engaging in other activities which could lead to physical injury."

On the other hand, they pointed out, "Poor judgement or mistakes in prescribing, fitting and wearing contact lenses can seriously damage the eyes and, in the extreme, resulting in loss of sight to various degrees."

It is this potential for damage to eye health that distinguishes the so-called "fitting" of contact lenses from the

fitting of spectacles. The very term "fitting" seems to imply that the primary need is to design lenses to match the shape of the eyeball and centre on the eye. But this is just one small consideration necessary to avoid physical irritation to the eye, lids and surrounding tissue. A more important consideration is that the design of the lens must not have any long-term adverse effects on either the eye or vision. In addition to producing no adverse effect on eye health, it must also fully correct the level of vision and produce no interference with the co-ordination of the two eyes, the focusing of the two eyes, or their light sensitivity.

In short, the lenses must not only fit to create no mechanical trauma, but also must cause no physiological changes, and equally important, must correct and enhance vision to the maximum degree possible.

A brief discussion of the steps involved in contact lens therapy will perhaps assist in an understanding of the issues. Generally there are three steps: evaluation, dispensing and monitoring.

1. Evaluation: Evaluation involves a number of examination procedures; biomicroscopic examination of the cornea, evaluation of the tear film and the health of the conjunctiva, lids, sclera and surrounding tissues, evaluating the shape of the cornea by keratometry of various types, examination of the internal eyes for possible contra-indication to wearing of contact lenses, the intra-ocular pressure; the focusing and co-ordination of the eyes, the refractive status--that is, the optical prescription--of the eyes, the health history must be evaluated to determine if the presence of allergies, illness, drug sensitivities or use of medication provide any contra-indication to wearing contact lenses.

If there are no contra-indications resulting from the above examination procedures, trial diagnostic lenses are then placed on the eye. This then determines the adequacy of the physical fitting characteristics of the lenses. Re-examination of vision is now carried out to determine if the contact lenses adequately correct vision and whether they induce any unwanted visual complications, such as eye co-ordination or focusing disturbances, uncorrected astigmatism, reduced vision, and so on.

The lenses are then removed to determine by biomicroscopic and other examinations whether there has been disruption to the tear film or the eye tissues. If all results of these tests are satisfactory, the initial lenses can then be designed. Before dispensing, the patient must be instructed as to lens hygiene, wearing schedules, danger signals, and after-care procedures.

The next step is:

2. Dispensing of the contact lenses: The lenses are ordered to the initial design specifications, verified on completion by the laboratory and then dispensed to the patient.

The next step is:

3. Monitoring the efficacy of treatment. Follow-up care is designed to ensure that not only is physical comfort achieved, but also that there is no disturbance in eye health, that there is optimum correction of vision, and that there is no disturbance of focusing, co-ordination or other visual function. This must be monitored over a period of months to ensure that with continued wear there is no likelihood of complications arising.

Some or all of the following procedures are used at the monitoring examinations: Biomicroscopy, keratometry, retinoscopy, with or without contact lenses, subjective refraction with and without contact lenses; tests of focusing ability; tests of eye co-ordination; vital staining of tissues.

It is quite clear that steps one and three are diagnostic tests outside the legal and academic scope of ophthalmic dispensers. Step two, dispensing of the contact lenses, is within the legal and academic scope of ophthalmic dispenser, ophthalmologist and optometrist. All three of these groups are currently dispensing contact lenses.

It is the contention of the Ontario Association of Optometrists that evaluating whether contact lenses can be fitted to the eye and monitoring the effects of contact lenses on the eye health and vision are outside the legal and academic scope of opticians under the present laws. None the less, some opticians are doing so.

It is our estimate that a small percentage of ophthalmic dispensers are carrying out these activities without intervention by the Board of Ophthalmic Dispensers. Indeed, the new curriculum is designed to extend the degree of contact lens activities by the optician. In this connection the Supreme Court of British Columbia recently ruled quite clearly that biomicroscopy and keratometry were optometric procedures and could not be carried out by opticians.

11 a.m.

We submit that the law should be clarified; that opticians, when dealing with contact lens prescriptions, may only dispense contact lenses. That is, they may fabricate lenses to the specific prescription of any ophthalmologist or optometrist for sale to the public, but any evaluation, monitoring or change in prescription should only be made on the further prescription of an optometrist or ophthalmologist.

In this way opticians would comply with their act, viz. "Ophthalmic dispensing means...the fitting, adjusting the adopting of ophthalmic appliances to the human face and eyes in accordance with the prescription of legally qualified medical practitioners and optometrists."

The public would thus have their eye health protected while still being free to attend the ophthalmic dispenser for the dispensing of their contact lenses.

We thank you for the consideration of our submission.

Mr. Chairman: Perhaps I could just try to clarify a couple of points which you made on the way through. I appreciate that much of what you said here today is rather technical in nature and it might be a little difficult for members of this committee to grasp all of the fine points. So let me begin by asking you to give us some estimation of whether you think those things which you identified under "conduct" are--which I would assume because you did take the time to put them in a list for us--practices which are occurring now.

Would you care to give us some idea of whether they are relatively common, whether they would be considered to be unusual? For example, what you define here as steering, is that a fairly common practice in the industry?

Dr. Langer: I must preface, since I am under oath, that my answers, of necessity, have to be more in the realm of opinion than specific information. My opinion would be that the practices of both steering and rebates are not common practices, that they were, perhaps, more common some years back. I believe that the present legislation is silent with respect to these practices and our purpose in putting them forward was not to correct an existing difficulty but to make sure it does not recur.

Mr. Chairman: The reason I asked that is that in the business world it is a relatively common practice that you develop a system of contacts and you kind of steer them around the block so you that you buy your car at one place and you get it repaired somewhere else, and someone else does the paint job for you. There is a kind of connection that is built around there. In selling we have determined spiffs. So that is not an uncommon business practice. I just wondered if it was true in this case as well.

You did state here under "conduct" that, on occasion, prescriptions are changed. By anybody's standards, would that not now be considered an illegal act?

Dr. Langer: Yes, I believe so. Certainly we receive numerous complaints from our members. You have to remember that a prescription has a number of components. I am sure that the power component of a prescription would not be changed, that is, the component that determines the focus of the eye. But, in addition there may be specifications as to type of lens, as to type of tint, as to type of bifocal, as to materials.

Very often, specific specifications on the prescription are departed from. Sometimes prescribers are at fault in not giving complete specifications. That is the other side of the picture. I think where the prescription is incomplete that the ophthalmic dispenser should check to ensure that any deviations from exactly what is prescribed is acceptable to the prescriber.

Mr. Chairman: In your section under price advertising, are you suggesting this be done by way of regulation or a kind of in-house self-regulation approach to it?

Dr. Langer: I would think that it would probably require regulation. I am not familiar whether the present act would

support a regulation that would govern that. But I would think, in most of the health disciplines, such conduct is governed by regulation.

Mr. Chairman: What about this part where you go into what services they may advertise? It goes back to that other thing you called "steering" previously. Is it common practice that they do arrange for eye examinations? To my knowledge, this is a fairly common ad that you see in the newspapers.

Dr. Langer: This has become common practice. It was not until fairly recently, perhaps the last two years. I guess it would be analogous to the pharmacist advertising "brain surgery arranged." I guess he could arrange brain surgery but it would, I think, be obviously inappropriate since it is not part of the function. I think there are obvious dangers of leading to relationships that are proscribed by permitting that sort of advertising.

Mr. Chairman: In the next section you go to what the committee has spent some time in its research trying to get at and that is the matter of whether or not there is a conflict of interest involved in here.

It seems reasonable to say, at this point, that no one has really gone at this question of conflict of interest in a formal way. It was thought to have been resolved at one time, but in a number of areas now there seems to be a recurring thought that we should formalize the conflict of interest concept in all of this, that it should apply right through the trade from those who are dispensing to those who are sitting on the board, that some clear concept of what is or is not a conflict of interest ought to prevail.

Is that your feeling as well that this is not particularly a theoretical problem but, from time to time, will become a practical one, as you point out here?

Dr. Langer: Yes, I think there has been some evidence that there are some potential problems. I also think the general principle involved that has been accepted in the health field is similar to the concept that not only must justice be done but it must appear to be done. Where there is potential for a conflict of interest I think it is desirable to set the rules ahead of time. Obviously there are historic patterns pre-existing that cannot be ignored. But I think we were trying to establish those principles that we felt were of importance and might have a practical bearing.

Mr. Chairman: In the next section under education, there is the question of how many professionals you really need in this field. Are you making an argument there are too many people practising, too many ophthalmic dispensers at work?

Dr. Langer: I think that might be a possibility in view of the growth in numbers, and in comparing the relationships to most other jurisdictions in North America and elsewhere. I know there has to be sensitivity in our making recommendations affecting another group and, therefore, it is very hard for us to give an

answer to it. I think the people in the field of opticianry are probably better qualified to give some sort of concept as to whether they think there is an oversupply, but I do think that the growth over that period of time suggests that a study to establish future manpower needs would be logical at the very least.

Mr. Sterling: How many optometrists were there in 1961 and now?

Dr. Thompson: There were 533 in 1961 and I believe it is 673 or 677 or 673 now.

Mr. Chairman: In recommending that a commission be established to determine or ration numerical needs, you seem to have covered the field very nicely, but who is there to represent the consumer?

Dr. Langer: I thought that perhaps the educator might be such a person, but I think that is a reasonable point.

I also did not mention, with respect to the composition of the board, about public representation but I took that as already existing in the act. We certainly are in agreement with public representation.

11:10 a.m.

Mr. Chairman: Is it your feeling that there is a serious problem respecting contact lenses and their advertising and promotion?

Dr. Langer: Yes, I guess you would have to say that from the space that we devoted to it.

Mr. Chairman: Do you feel that there is much of a danger? There have been reports lately of people running into difficulty with contact lenses and the kinds of materials that they use to clean them and whether they read the boxes correctly or not.

I believe it is true to say that there is a general assumption out there that these are pretty safe things to use and that they are getting better all the time. If I believed the promotional material that I get in my office there really are not many problems with them.

Dr. Langer: I think the conclusion that there are not many problems is not warranted. There are many problems. No matter who is fitting them the potential for problems exists and the need for very careful monitoring exists on all types of contact lenses, all the more so with modern developments of soft contact lenses, which are mechanically not irritating to the eye and therefore their effects may be masked by the fact that the lenses feel comfortable even though changes in tissue are taking place.

Mr. Chairman: So that is an area where you have gone at some length here to delineate exactly who should be providing what kind of treatment. As I read that general synopsis it is that more regulation and more consideration should be paid to precisely who does the prescribing and fitting and there should be far more regulation than is the current practice in that regard.

Dr. Langer: My understanding of the legislation is that the position we have put forward is supported by the existing legislation both with respect to ophthalmic dispensers and in the Health Disciplines Act as regarding physicians and optometrists, but, certainly in practice, that is not the way things are being done and we feel that is something there is a need to come to grips with.

Mr. Chairman: You did note in one other area that you are basically in support of the proposals by the independent opticians regarding conflict of interest. At the board level is there a real practical problem because of that lack of conflict of interest clarity?

Dr. Langer: I must confess that I am not even aware of what affiliation present members of the Board of Ophthalmic Dispensers have and so I think I can say that we put this forward as a principle and not aimed at any particular individuals. Again there is the concept that not only must justice be done but it must appear to be done, therefore the primary responsibility of the Board of Ophthalmic Dispensers is to the public and third party consideration should not be involved in their decision making.

Mr. Mancini: Just one question concerning the brief that was presented to us this morning; at page three, section six, you state, "Moreover, markups by independent opticians were found to be substantially lower than those of laboratory affiliated opticians." Then you go on to suggest that the public would be better served if there were no laboratory affiliations at all.

Could you give us an example of what you would feel to be the norm and the difference in the markups?

Dr. Langer: I think I was referring here to the report of the Restrictive Trade Practices Commission and I will have to go just from my memory, which may be wrong. I think the report suggested that the difference in charges were in the order of nine to 43 per cent between the two groups of opticians.

Mr. Mancini: Why would you feel that the laboratory-affiliated opticians would charge more? What reason would there be for that, other than just to have a larger income? Do you know of any particular reasons?

Dr. Langer: No, I can only report that this was based on a study the Restrictive Trade Practices Commission carried out in order to determine costs in various types of opticians' businesses and this was their finding. I cannot really explain why. I would just have to conjecture.

Mr. Mancini: Because there is a real problem here after you make such a statement. Basically what you are saying is that the consumer is being overcharged for no apparent good reason and that this overcharging is more or less public knowledge and someone should do something about it.

That appears to me what you are saying in your brief. Do I understand that to be correct?

Dr. Langer: Yes, I think that is probably correct.

Mr. Mancini: And your answer to that would be that the opticians not be affiliated with any laboratories?

Dr. Langer: That is correct.

Mr. Mancini: Do you think that would solve the problem?

Dr. Langer: That is difficult to say, but this has been the principle established, I think, for all of the health professions. That is, to avoid conflict of interest there should not be a third party relationship to which the practitioner owed an affiliation. In the case of the health professions, the main obligation the practitioner has is to the patient and not to any third party. I guess the principle that we are saying is that this same principle could well apply in the case of opticians.

Mr. Mancini: But your comments of anywhere from nine to 45 per cent?

Dr. Langer: I think that was the figure given.

Mr. Mancini: That is quite substantial. Some people may not really be in a position to afford the tremendous increase when they are talking \$100 or greater. Anyway, thank you for your comments.

Mr. Charlton: To go back to the contact lenses again for a few minutes, could you go a little further into just what it is that is happening now that causes your concern? What are opticians doing now that you feel goes against the grain of the act and that you feel could cause some serious problems?

Dr. Langer: Some opticians, for example, are fitting contact lenses on the basis of neutralizing existing glasses and from that determining what the prescription is and proceeding to fit contact lenses. One of the problems in the fitting of contact lenses is that the optical effect of a contact lens on the eye is different from that of glasses and very often placing a contact lens on the eye results in some components of the prescription being omitted. This is more usually a prescription for astigmatism but it could also be prism prescriptions or other components.

Mr. Charlton: They are actually creating a prescription from a glasses prescription as opposed to a specific prescription dealing with a contact?

Dr. Langer: Yes.

Mr. M. Davidson: What you are saying is that the prescription would alter?

Dr. Langer: That might happen. There is also the fundamental question as to whether or not contact lenses are suitable for this patient in the first place.

Mr. Charlton: The bottom line of what you are saying here is

that opticians should be making and dispensing contact lenses and nothing else--that they should be fitted by yourselves or ophthalmologists?

Dr. Langer: Yes.

11:20 a.m.

Mr. Ruston: One question, Mr. Chairman. I noticed on page three you mentioned that the number of dispensers has gone up so much. I wonder if you have any information available as to what percentage of the people wear glasses compared to 20 years ago.

Dr. Langer: I am sure that information is available.

Mr. Ruston: That's minor, I suppose, but I know that in that 20-year cycle there are many more places available to get them and they are much closer. I live in a rural area myself and we were very limited to where we could get a pair of glasses. You had to drive 30 miles, whereas now you can go 10 miles in any direction and there is always someone there. I am sure that has some bearing on it.

In 20 years we must remember the population has increased by one third. Also I think, but I'm not sure, the number of people who now wear glasses compared to 20 years ago--but that would have a little bearing on that number.

Dr. Langer: I would like to make it clear that we are not suggesting that the number is necessarily not in balance with the need. We are suggesting that the rapid change suggests it should be examined as to whether it is related to need.

Mr. Sterling: I find it a little difficult with all the terminology used, and I am sure the public is totally confused, to determine what you fellows are all about.

There is an ophthalmologist, who is a medical practitioner and presumably has more educational requirement than, say, a family physician, because he has to go through a specialty. Then there is your group, which is, I guess, somewhere between the optician and the ophthalmologist.

Is there really a need for all of this? Why doesn't the ophthalmologist take care of all the medical or the health problems and why don't we just have the two groups? Why do we need the in-between group?

Dr. Langer: We might phrase the question somewhat differently than you do. I think it is quite clear that all three groups are required. The needs for vision and eye care cannot be met by any one group or even any two groups as it now stands. There might very well be a different division of labour than now exists. That might be more rational. But I think we have to take things as they currently are.

There is a study that has just been completed on optometry and will shortly be published. Perhaps it may help to explain for

you a little more fully what optometrists do. Certainly optometrists see a very high proportion of the public who require eye examination, diagnosis and treatment, which is what our function is.

I think your question is: why have optometrists? I think the answer is: because the public needs them. As a matter of fact, in 65 per cent of the communities in which optometrists practice, they are the only practitioner available for care.

I might, out of my own professional self-interest, rephrase the question you put. I think optometrists. I think, in all honesty, all three groups are needed. Our intent in being here is not to suggest that we restrict or interfere with any one of the groups, but rather that we improve the rationalization of the delivery of services.

Mr. Sterling: Of course, we are all interested in that because, I guess, the bottom line is the price and quality of the care that our people are receiving.

I have never come across, in my three and a half years as a provincial member, anyone complaining about either the contact lenses or the glasses they have received from an optometrist or as directed by an ophthalmologist. Is it a real problem? It seems as if it is a fairly competitive field, which is good in my view as far as the consumer is concerned.

Dr. Langer: Perhaps I can answer that best by an analogy. I read periodically about people who have been carrying out brain surgery or various complicated medical acts who turn out to have been untrained people. They have been functioning for two or three years in a hospital setting and nobody has died.

I don't think that would be an argument that brain surgery should be open to all comers. I still think the requirements of good care and the need to minimize the risks of the type of care patients receive has to be the underlying motivation of regulation. I don't know if that helps explain the issue you raised.

Mr. Sterling: You mention in your brief a possible conflict between an optician and a laboratory. Would you see this in your case as a conflict of interest as well in terms of the testing of the eyes and also dispensing the glasses? You have a captive market; you have me in there for testing; I ask where I should go to get my glasses. "We just happen to have another office over here. We'll fit you with the frames." Is that not a captive market as well, especially when you are being paid on the front end by OHIP?

Dr. Langer: There is always a potential for conflict of interest any time the person who does the diagnosis also carries out the treatment. The surgeon who does a diagnosis and determines that surgery is necessary certainly has a potential for conflict of interest. The optometrist has the same potential. The dentist has the same potential because he carries out the examination and determines what treatment you need and carries out the treatment.

What society has said is, "Because there is that conflict of interest, we are going to bind you with a series of regulations to minimize the potential." In the case of optometry, that has been minimized by having regulations forbidding us to make profit on the materials provided and requiring us to provide the materials at cost, plus whatever our fee might be. So the public knows what the exact cost is and what the fee is.

Admittedly there is still the potential for a conflict of interest but it has been minimized in order to effect a rational delivery of services. That is really what we are saying. I think it is probably impossible to eliminate all possible conflicts of interest. What is desirable is to minimize them or at least to regulate them in such a way as to protect the public to the greatest degree possible.

Mr. Sterling: I thought I had read somewhere before that the evidence showed the user in the end would be paying a higher price if he bought them through-- Is there some evidence in that federal report?

Dr. Langer: Bought it through where?

Mr. Sterling: If he bought it through the optometrist rather than going to an optician.

Dr. Langer: No, as a matter of fact, quite the contrary.

Mr. Sterling: It is the contrary?

Dr. Langer: The conclusion was that the optometrist's fee, if it were translated into a percentage comparable to the markup used, would actually be substantially lower.

11:30 a.m.

Mr. Sterling: So if the OHIP payment was taken away, and I took whatever prescription was written out and went to you and then compared the price with that of an optician, you say it would be less expensive in general from the optometrist.

11:30 a.m.

Dr. Langer: That was the conclusion that the Restrictive Trade Practices Commission reached.

Mr. Sterling: Is there much upgrading from an optician to an optometrist?

Dr. Langer: There is an entirely different type of program. The educational program, by and large, for opticianry has been a home study type of program. In recent years there has also been a full-time, two-year program at Seneca, in a community college. So they are covering entirely different areas.

The entry into optometry is grade 13, plus pre-optometry, which averages at least two years, plus the four-year professional program. So there is quite a difference in the--

Mr. Sterling: There is no professional exam that an optician, who felt that he was qualified through experience, through reading, et cetera, could go to the optometrists and say, "I would like to take an exam to come into it."

Dr. Langer: No, he would have to complete successfully an accredited university program in optometry.

Mr. Sterling: Are the entrants into that course controlled? In other words, is the number of optometrists appearing on the market each year controlled by the optometry association?

Dr. Langer: No. The college, which is our regulatory body, accepts graduation from any accredited university program as being sufficient training to permit entry into the field. So people not only from our school in Ontario but from other accredited schools could be licensed in Ontario.

Mr. Sterling: Are you turning away more now than you did five years ago, going into the course?

Dr. Langer: There are more people being licensed than there were previously.

Mr. Sterling: Are the percentages that are at the door to apply for the optometry course--

Dr. Langer: For the course?

Mr. Sterling: Yes. Are there more being turned away now than there were five years ago?

Dr. Langer: I couldn't answer that with certainty. There certainly are a significant number who apply who are not accepted into the program.

Mr. Sterling: What I have difficulty with is knowing if there is an abuse. I guess I am a true conservative. If I think things are working okay and they have evolved okay, unless someone points out to me that there is a real abuse, then I am probably willing to sit with a working situation.

Does the college get many people calling about abuse? Is that abuse just related to the optometrists, or is it related to the opticians and the ophthalmologists as well?

Dr. Langer: We are the association and I am here representing the association. I think the college is going to appear. I think you could address that question to them.

Mr. Ruston: What percentage of your optometrists do the dispensing as well as the examination?

Dr. Langer: Roughly about 90 per cent. I say "roughly," that happens to be about the percentage that was found in this recent study.

Mr. Mancini: Just a follow-up to that question on the

comment about ophthalmic dispensers being affiliated with these big concerns. Are optometrists also affiliated, since 90 per cent of your group do dispensing?

Dr. Langer: Optometrists are not allowed to be associated with anyone other than another optometrist or physician.

Mr. Mancini: So you are the real independents then?

Dr. Langer, actually your soft voice and polite demeanour has thrown me off because listening to you and rereading the brief, a person gets two completely different opinions, if he studies it for a moment.

Actually, after having listened to you at first, it seemed that maybe you had some concerns but they really were not all that strong. I just had a few moments here and I have gone over the brief again, but your brief is actually very strong. You list out just one item after another where you do not say there is blatant abuse, but you say there could be blatant abuse.

The underlying theme is that "We think all of these things are going on, but we are testifying under oath; we do not have the exact data at our fingertips; we cannot prove these things," but the continual underlying theme is--this is in my view anyway--"We believe all this is going on."

It seems to me that you are urging this committee to take some harsh and some drastic steps. You want all of these things addressed very seriously.

You have mentioned the price, how ophthalmic dispensers charge anywhere from nine to 45 per cent more, and under questioning, you said you could give no reason as to why they are paying more. That is a direct ripoff to the consumer.

You mentioned steering. Although you say that steering may not be a common practice, it is in your brief some type of cliques can be developing. Through vertical integration people are charging the consumer more ultimately.

You go into the rebates. You go into the prescriptions. Actually when one goes over your brief again, it is much stronger than, say, the tone of your voice which we have heard this morning. I just want to make it clear to myself, because the committee does plan to write a report, and does plan to submit it to the Legislature for the debate. I am having difficulty in weighing--

Dr. Langer: Perhaps we are influenced by the fact that all of the things that we have suggested are matters that would govern the conduct of all other health professionals. What our underlying philosophy is, the provision of the spectacles, is translating our examination into therapy. Therefore the protection that is available to the public in the case of the professionals that they visit, should also be available all the way down the line.

When I say that because abuse does not currently exist, I

think the fact that the potentiality of the problem has been identified with respect to the health professions, makes it desirable that ancillary personnel have the same sort of constraints so as to protect the public. Therefore I think what I said initially reflected our true feeling. Because we are touching on the changes that we think are desirable, we are perhaps not making it clear enough that we are not trying to in any way interfere with the technical role of the opticians.

What we are really trying to suggest, at the request of this committee, is those areas where we feel from our experience in our own sphere of practice, protection might be written in which would be advantageous, even though it is not correcting an abuse that presently exists. If it is a potential abuse, surely the best time to identify it is before it happens.

Mr. Mancini: That is all.

Mr. M. Davidson: You have indicated these abuses have taken place in these areas previously however.

Dr. Langer: Yes.

Mr. Chairman: Any further questions?

Thank you, gentlemen, for appearing before the committee. As you have been informed, we are continuing with this examination. We will prepare a report for the consideration of the Legislature. I would hope that we would have your continued co-operation if we have further questions, or if you have something which you want to add at a later date that you can provide that information to us.

The committee has three other groups, perhaps four, who want to make a presentation. I would need the consensus. Probably we would try to get one more in this morning and then break.

11:40 a.m.

From the College of Optometrists, on my left side, I have Dr. Irving Baker, and Dr. Ron Hansford. For the information of the committee members, it is this brief that is now being presented.

Dr. Hansford: Mr. Chairman, I think Graham White and the other gentlemen were aware of the fact that we were presenting, prior to appearing here, the brief. I understand you have it. Dr. Baker has made sufficient copies to give to the individuals in the room. I think he has now distributed those or is about to. That would meet with your approval, Mr. Chairman?

Clerk of the Committee: Dr. Hansford, would you take the Bible please?

Dr. R.R. Hansford, sworn.

Dr. I. Baker, sworn.

Dr. Hansford: Mr. Chairman and members of the committee, I will read from the brief. From time to time, I will refer to other

documentation that is either attached to the brief, or which I know you have in your possession. If I may, I will begin.

We represent the College of Optometrists, the licensing and disciplining body within optometry. We function, as you know, under the Health Disciplines Act with medicine, dentistry, optometry, pharmacy, and nursing. As a body responsible for the administration of a provincial statute, that is part V of the Health Disciplines Act, 1974, Optometry and regulations thereto, our remarks will be directed towards the existing act and regulations under which ophthalmic dispensers are being licensed presently, and are carrying on ophthalmic dispensing.

I would like to emphasize at this time for the members of the committee that in preparing for our appearance before you it was our understanding that the committee was dealing with the existing law as opposed to proposed changes. It is from that point of view that we will be responding today.

The college has chosen this approach for several reasons. In the first instance, the college has developed, over many years, a respect for and an understanding of the relevance of legislation, and its application to the providers and users of health care. Arising from this experience, it becomes clearer that when the Legislature of the province decides that, as a matter of public protection and welfare, it is necessary to license or register members of a health care profession or, in this case, an occupation, and when such legislation takes the form of self-government with its attendant legislative and judicial functions, it becomes essential that such legislation be drawn to provide for the appropriate powers and controls which protect and serve the public and, at the same time, protect through the due process of law, the rights of the members of that health care profession or occupation.

Without the appropriate powers and controls set out in the legislation which deal with such matters as admission (registration or licensure), and the maintenance of the quality of the provided services and appliances, that is the standards which include a combination, of course, of the current knowledge, technical competence, and ethical requirements in carrying out the required services by members who have been admitted to practice, the objects of and the reasons for the legislation are frustrated no matter how sincere or dedicated a governing body may be in carrying out their delegated duties under the statute.

Within this context, the college would respectfully submit that the current legislation under which the ophthalmic dispensers are registered and controlled is out of date. Neither the substance of the act nor the regulations under the act are consistent with what is generally considered today as being appropriate and relevant to public protection and safeguarding the legal rights of the ophthalmic dispenser.

In 5(i) I would like to draw the committee's attention to the reference to section 1(d), which deals with the definition of ophthalmic dispensing. If you would, Mr. Chairman, I would read it

for the members of the committee, so we might go through it together.

Ophthalmic dispensing means: (1) the supplying, preparing and dispensing of ophthalmic appliances; (2) the interpreting of prescriptions of legally qualified medical practitioners and optometrists; (3) the fitting, adjusting and adapting of ophthalmic appliances to the human face and eyes in accordance with the prescriptions of legally qualified medical practitioners and optometrists.

While section 1(d) describes ophthalmic dispensing, the interpretation or meaning of this section is not dealt with in a specific manner under the regulations. The college believes that this should be dealt with under the statute and that the meaning or intent of section 1(d) should not be left to the courts.

To illuminate this point, you will note in our brief that we have appended three pages which are on blue paper. If I could have the indulgence of the committee, I would ask that I be allowed to return to that in a moment. The registrar has indicated to me that if we move to point (ii) under item 5 there is a typo error. If I could ask the committee to make a change; instead of section 14, it should read 13, and on page four, under 6(c), it should read section 19(a) instead of 20(a).

Continuing on then with 5(ii), when section 13--that is where prescriptions were required and then they listed the exceptions--which provides exceptions from the necessity of an ophthalmic dispenser obtaining a prescription from a duly qualified medical practitioner or optometrist in order to supply or dispense an ophthalmic appliance, it is not clear what obligation under the law the dispenser has when duplications, replacements, reproductions, or repetitions are carried out. Within the meaning of the present definition of ophthalmic dispensing and its lack of specificity--and if you would refer back to point (i), the definition--it is unclear what is and what is not permitted when the acts of duplication, reproduction, et cetera, are carried out by the ophthalmic dispenser.

You have heard some reference this morning made to this problem by the association. The college believes that it is central to the purpose of this act that not only the obscurities which result from the existing definition of ophthalmic dispensing be removed, but also the exceptions be more explicitly defined in order to ensure that these acts fall within the definition of ophthalmic dispensing.

Would the members of the committee turn to the blue pages. As a matter of background, and it may not be obvious from the small paragraph which appears under the large heading of "Ophthalmic Dispensers and Ophthalmic Dispensing," as it states there, this is a document which has previously been provided to and discussed with the Board of Ophthalmic Dispensers and I would draw your attention to the date that appears on the bottom, July 21, 1977.

11:50 a.m.

It is obvious that a number of these matters have been of concern to this college for some period of time and I must say in all fairness many of the concerns were equally shared by the existing board at that time.

Ophthalmic dispensers and ophthalmic dispensing became the purpose of a meeting, obviously between the Board of Ophthalmic Dispensers and our college, to bring to the attention of the Board of Ophthalmic Dispensers the concern of the College of Optometrists respecting the ophthalmic dispensing activities of some ophthalmic dispensers. We felt that the interpretation of the definition of ophthalmic dispensing in the current Ophthalmic Dispensers Act, 1960-61, and the administration of the present act in accordance with the current statutory definitions and the board's statutory responsibility were something that we wanted to discuss.

We wanted to achieve an understanding between the college and the board on these matters so that each regulatory body, which after all must relate to one another in protection of the public interest, may work in harmony and agreement with one another in the pursuit of appropriately discharging their statutory obligations and responsibilities under the existing laws in order to more effectively protect the public interest and welfare.

The college believed at that time, and continues to believe, that the most effective way of regulating a discipline is by peer review with public representation. Further, the college believed at that time and continues to believe today that it is in the interest of all parties concerned, providers and consumers of services, the public and governing bodies, that a licensed or registered person should be disciplined by their own body rather than by some other agency or body--vis-a-vis the college, for example--when such member is or has been carrying out acts which appear to be in contravention of their own or other disciplines' laws.

We went on then to identify for the Board of Ophthalmic Dispensers some situations which had come to the attention of the College of Optometrists in carrying out our normal functions and from the advantage point of the college there appeared to be several trends developing whereby ophthalmic dispensers, in carrying out their present statutory privilege of ophthalmic dispensing, are either going beyond the legal definition in the present act and/or are in contravention of part III, the medical, and part V, the optometric portion of the Health Disciplines Act, 1974, and regulations thereto.

Point number one: In ophthalmic dispensing optometrists' prescriptions, not infrequently the ophthalmic dispenser will change the physical characteristics prescribed, for instance base curve, form of cylinder, type of bifocal, et cetera, and/or will add absorptive qualities to the prescriptions which were not ordered.

Two: In contacting ophthalmic dispensers who have signs on their premises which stated "contact lenses" or advertise "contact lenses," many of them are prepared to provide the inquirer with

contact lenses, without prescription, by neutralizing a pair of glasses which the inquirer was wearing or stated that he was wearing. That is another point which was touched upon this morning by the Ontario Association of Optometrists.

Of course it goes back to the point that we were making with respect to the difficulty in interpreting the definition of ophthalmic dispensing at the present time and it relates very directly to what is the meaning of duplicating an Rx, a prescription.

Three: In some instances ophthalmic dispensers will neutralize the spectacles of an inquirer or client, they will actually carry out some additional observational and measurement procedures and advise the person as to the desirability or otherwise of contact lenses and, in the former case, the best type of contact lens they should have, be it hard or soft.

I think the association has addressed itself to the implications with respect to their scope of practice and I think if the committee wished to discuss that at the question period we would be prepared to do so.

Four: In reviewing the nature of the complaints received by the college it becomes apparent that some ophthalmic dispensers supply their clients with contact lenses without a prescription from a legally qualified medical practitioner or optometrist.

Five: In some instances it has been reported that an ophthalmic dispenser has changed the power of the prescription, and by that we do not mean the effective power or the correction. For members of the committee, when you move a lens from the spectacle plane to the eye, there is a normal modification of the prescription to be made for the contact lens. We are not referring to that, we are referring to the fact that they are converting the spectacle power of the prescription to the equivalent power at the corneal plane. That means when you move it back you modify it.

We are not complaining about that, but we are complaining about the fact that it has come to our attention from time to time that ophthalmic dispensers are presently using trial lenses and measuring visual acuity, using visual acuity charts and so forth in their practice with the contact lenses in place.

In each of the five areas of concern noted above the college believes that the ophthalmic dispensers who operate in this fashion are in contravention of the present Ophthalmic Dispensers Act, 1960-61, because the performance of these acts by the ophthalmic dispensers goes beyond the meaning of ophthalmic dispensing as defined by the statute.

They made, as you will note, several recommendations to their board at that time in 1977. We made the statement that the college would not be so presumptuous as to tell the Board of Ophthalmic Dispensers what actions they should take. Consequently, the recommendations put forward to the board for its consideration are principally motivated by what we consider to be our mutual duties and responsibilities in the administration of our

respective statutes in order that the public interest may be served and protected.

In that spirit, and for that reason, the college respectfully proposes:

1. When violations of the act have occurred or appear to have occurred the appropriate steps be taken, in accordance with the law, to correct the situation.

2. The college has presented five cases where there are allegations that contraventions of the act have occurred and, accordingly, the college recommends that the board consider these allegations and take the necessary action where indicated.

3. Of equal importance, the college recommends that the board should consider advising, at an early date, all ophthalmic dispensers of their legal responsibilities as defined by the act and of those procedures and actions which go beyond the definition of the Ophthalmic Dispensers Act, 1960-61. This would be of benefit to all parties concerned and would be in conformance with the McRuer principle, that if a member is to be held responsible for his actions by his governing body the member should know, or should have the means of knowing, what is regarded as improper conduct, insofar as the powers of discipline may be exercised. This principle, as you know, has clearly been implemented in the regulations of all the health disciplines within the Health Disciplines Act, 1974.

Gentlemen, when you turn to the last page of the memorandum, in order to interpret this we had to go to a dictionary and consider at the same time what appeared to be the intent of the law at the time. I simply make that point because, as you will note, we feel the present Board of Ophthalmic Dispensers is operating without the powers that they require, which makes their job extremely difficult. Part of the problem is the matter of definitions in regulations are lacking, in our opinion.

In our opinion, obviously, the matter should be made clear by appropriate regulations under unprofessional conduct and at the present time the board appears to have little or no authority in this area.

12 noon

We are suggesting that ophthalmic dispensers--this again goes back to 1977 and I think it still reflects the position of the college--may not change any specifications which are contained in the prescription of a legally-qualified medical practitioner or optometrist. We suggest they may not add any component, be it absorptive qualities, photogray, et cetera, to such prescriptions which is not specified by the prescriber.

We also suggest that ophthalmic dispensers may not supply or dispense contact lenses, or any ophthalmic appliances, except on prescription of a legally-qualified medical practitioner or optometrist. It follows that determining the powers of lenses in spectacles by neutralizing and using this data as a basis for

ophthalmic dispensing of contact lenses is, in our opinion, a contravention of the act.

Our third suggestion: that ophthalmic dispensers may not advise clients as to the appropriateness or otherwise of contact lenses based upon the neutralization of the spectacle correction and/or other measurements and observations since this is the act of prescribing and/or is ophthalmic dispensing contact lenses without a prescription from a legally-qualified medical practitioner or optometrist.

Ophthalmic dispensers may not determine the refractive status of the eye by any means since it does not fall within the legal definition of ophthalmic dispensing and it is by legal definition part of the practice of optometry and medicine.

Advertising of contact lenses by ophthalmic dispensers without reference to the fact that they may not be supplied by the ophthalmic dispenser except upon prescription may be considered a matter of misrepresentation.

You will note at the bottom we also address the problem that there did not appear to be any definitions under the act. We felt it may be useful to our college and their board if there was agreement to certain definitions. I will not take up the time of the committee by reading those but some of them are very important.

I am returning now to the top of page three of the memorandum.

These obscurities which we have noted in the memorandum as they pertain to the legal meaning of ophthalmic dispensing could be removed by appropriate regulations under the definition of unprofessional conduct. In this way the public would be better protected. The ophthalmic dispenser would know the limits of the practice of ophthalmic dispensing and his or her legal responsibilities to and relationships with persons presenting themselves to the ophthalmic dispenser for ophthalmic appliances. It would also serve to clarify the relationships between the ophthalmic dispensers and the prescribers, namely ophthalmologists and optometrists.

The present act and regulations are silent with respect to the advertising by ophthalmic dispensers. Since this is the case ophthalmic dispensers, and optical companies who employ them, have elected to solicit eye examinations through the use of signs and advertisements which purport to arrange eye examinations.

I want to make a point of clarification for the committee because I am very conscious of my friend Norman Sterling over here and his line of questioning. I want to make a point of clarification from a college point of view.

We are not addressing ourselves to the matter of whether an ophthalmic dispenser, when asked, can be of assistance to a member of the public. We are not saying they should not suggest someone or at least direct the member of the public to where they can find those services. We are addressing ourselves purely to the matter

of advertising and soliciting by form of writing, be it in a newspaper, radio or signs in the window.

This soliciting has resulted in the reversal of the usual order of events in that these dispensing outlets place themselves in the position of referring a customer to an ophthalmologist or optometrist. In the college's experience this has led to situations of conflict of interest and is fertile ground for developing arrangements between prescribers, ophthalmic dispensers and optical companies which are not in the best interest of the consumer.

The result of this activity on the part of the ophthalmic dispensers is not in the public interest and should clearly, in our opinion, be prohibited under the existing act by an appropriate regulation, that is that an ophthalmic dispenser should be permitted to advertise only those services and products which he is lawfully entitled to do and to provide.

Similarly, the advertising respecting contact lenses is open to obvious question. While, under the existing act, ophthalmic dispensers may dispense contact lenses upon the prescription of a duly qualified physician or optometrist, the substance and appearance of these advertisements does not make the requirement of an appropriate prescription apparent nor does the action of some ophthalmic dispensers clarify for the consumer the necessity of obtaining a prescription from a qualified prescriber.

Both the advertising of contact lenses and the actions of ophthalmic dispensers in this respect can and should be codified under the section on unprofessional conduct regulations so that the public can be better protected than it is now.

The college would like to make it abundantly clear to this committee that the matter of advertising or not advertising by ophthalmic dispensers and of ophthalmic dispensing is a matter of public policy. The advertising to which this college refers does not deal with this matter--that is of public policy--but rather with the existing situation and ensuring that the present advertising by ophthalmic dispensers does not go beyond their lawful scope of ophthalmic dispensing and is not misdirecting or misleading.

There are other issues and inconsistencies within the present statute which should be addressed. We have listed three. They deal with the registration as an ophthalmic dispenser, training and the appeals process. They deal with disciplinary procedures, what constitutes unprofessional conduct, a range of penalties, et cetera. They deal with the permissiveness of section 19(a) without the concomitant controls and responsibilities set out in the regulations pertaining to these types of practices and which, in part, provide for some of the situations which have given rise to many of the concerns expressed by the Restrictive Trade Practices Commission in their report, The Ophthalmic Products Industry in Canada, 1978.

I would again indicate to the committee that Dr. Baker, who is the registrar, has most of the experience in those areas as

they are highly technical, and myself, are prepared to expand on those areas for members of the committee if it is your desire.

Finally, when an occupation is granted self-government by legislation it clearly delegates legislative and disciplinary powers to the members of that occupation. Independent ophthalmic dispensers have voiced their concern with respect to the composition of the board, and so has the Restrictive Trade Practices Commission in the report that is outlined.

It seems reasonable to the College of Optometrists of Ontario that the ophthalmic dispenser members of the Board of Ophthalmic Dispensers, who compose the majority of the board and who are charged with the responsibility of administering the act, should not have nor appear to have a conflict of interest in carrying out their responsibilities as administrators of the act. To give effect to this act as well as to build confidence in the public with respect to their concerns and protection it would seem essential that the composition of the board be such that it is above suspicion both in fact and appearance.

In summation, the college appreciates the invitation it received to present its views with respect to the Board of Ophthalmic Dispensers and sincerely hopes that it has contributed to the review of the Ophthalmic Dispensers Act, 1960-61, by the standing procedural affairs committee; all of which is respectfully submitted. Signed by our president, Dr. D.R. Larkworthy.

12:10 p.m.

Mr. Vice-Chairman: Thank you, Dr. Hansford, for your presentation. I am in the hands of the committee. It is now 12:10. Do you wish to carry on questioning with Dr. Hansford and Dr. Baker at the moment rather than adjourn?

Agreed.

Mr. Vice-Chairman: All right. Dr. Hansford, the data you have given is dated July 21, 1977, entitled Ophthalmic Dispensers and Ophthalmic Dispensing. On page two, recommendations of the college, number three, "Of equal importance the college recommends that the board should consider advising at an early date all ophthalmic dispensers of their legal responsibilities defined by the act and those procedures and actions which are beyond the definition of the Ophthalmic Dispensers Act, 1960-61."

Was that acted upon?

Dr. Hansford: To the best of our knowledge it was not. You understand that the board has changed; I think that is why you are here.

Mr. Vice-Chairman: Yes, we realize that.

Dr. Hansford: At the time I believe Mr. MacLean was the chairman, the executives of our college and their board were meeting from time to time on as regular a basis as we could to

deal with certain matters. To the best of my knowledge it was not. I think you would have to address that question to the board; I do not know. I believe they did not really agree with much of what we were saying.

Mr. Sterling: Is their interpretation the same as yours that they are not supposed to fit contact lenses? What is their interpretation?

Dr. Hansford: Sir, I think you would have to ask them that question. We have carried on a dialogue with them and, obviously, there has been a difference of opinion. I really am not trying to be tricky with you.

Mr. Sterling: No, I am just having difficulty getting the issue out.

Dr. Baker: I think, perhaps, I may contribute something to the understanding. I think we could start off by saying this is not theory, this is fact--in the sense the memorandum was prepared on the basis of a number of complaints about that type of procedure which we, as a college, received from the public or through Consumer Affairs.

Mr. Sterling: This is the blue one.

Dr. Baker: Yes, that was based on that. It was on the basis that when we brought these matters and supplied the then board with the facts as we had gathered them--that is, the complaints, et cetera--we found that in many instances, perhaps in most instances, they were not acted upon.

If my memory serves me correctly it was then decided there could only be two reasons they were not being acted upon. Either (a) they did not have the authority under the statute--and I believe they have very limited authority under the statute in this respect--or (b) they did not agree with our interpretation of the existing statutes. It was on the basis of that background that this meeting took place and the blue document which you have before you arose.

To be very specific, we had evidence on the basis of complaints where clients, patients, consumers, however you want to identify them, did enter the premises of an ophthalmic dispenser wearing spectacles and ended up with contact lenses. The modus operandi was that the ophthalmic dispenser simply neutralized--that is, took the powers from--the eyeglasses and translated them into a contact lens prescription and then fitted them.

Mr. Sterling: To do so is dangerous healthwise?

Dr. Baker: Certainly, in my estimation, the answer is yes. But let us go back to first base. There is no definition of the word "prescription" in the statute. If you ever get into courts with lawyers, and I do not know what you are but if you happen to be a lawyer--

Mr. Ruston: He is one.

Dr. Baker: --that is the very thing you would focus on. This is why, in our submission, we said that these are matters that should not be resolved in the courts. This is a matter for the Legislature because it is a matter of public policy.

If we have the same understanding of the statute, the fact is that the purpose of the statute is not to protect the practitioner essentially, but the purpose of the statute is to protect the public. Whether or not neutralizing a pair of glasses and translating them into contact lenses is in fact a prescription or not a prescription is not a matter for the courts to argue.

Let me draw your attention to an existing statute. If you go to part VI of the Health Disciplines Act you will find that under the pharmacy part there are very specific definitions about many of these words as to what they mean so far as the statute is concerned. So what we are attempting to do here is to discuss with the Board of Ophthalmic Dispensers, using this simply as an example, does this person who does this, is he in contravention of his statute or is he simply duplicating a prescription and escaping under the question of an exception? That is why we brought in this whole question of what does duplication and replacement mean. How are you going to argue in the courts as to what they mean?

We are suggesting to you that if it is important, and we believe it is in terms of public protection, that the terminology that is used and, obviously, there for intent or purpose better be clarified. You can clarify it either by definition of the word or you can make it a matter of unprofessional conduct, using their terminology, or both.

All we are suggesting is that in the wisdom of the Legislature they ought to address this problem of clarifying what an ophthalmic dispenser may or may not do in carrying out his function of ophthalmic dispensing. We believe that he is in contravention even of the existing act. I suspect that the Board of Ophthalmic Dispensers may very well have a different view.

Mr. Sterling: Why would you not proceed to some legal remedy?

Dr. Baker: There are two things. I think it is identified in our document.

As a governing body, we believe that each governing body should deal with their own members. The second thing is that if we were to charge that person we would have to go--and this is my understanding and I am not a lawyer--to civil court on this matter as opposed to having their own hearing. We would prefer not to do that. We think that if the Legislature has given an occupation or a profession the responsibility of administering its own statute we believe they should do that.

I think we cannot get away from the point that to decide what is proper or not proper conduct in the legal sense from the point of view of protecting the public should not be left to the courts to decide. I think that is a responsibility that the

Legislature has. After all, they drafted the legislation for a purpose.

Mr. Sterling: With respect, there is always conflict between various professions as to their own turf.

Dr. Baker: I am not raising that issue at all.

Mr. Sterling: There has been litigation between architects and engineers as to what areas they can venture into.

Dr. Baker: Mr. Sterling, with respect, I am not questioning the turf at all. What the college is raising is whether or not both the intent and the meaning of the act with respect to their legal responsibilities for which they must be accountable, permits them to do this in the public interest.

Mr. Sterling: I am just having difficulty in my own mind. If you have never challenged the legislation to find out really what the meaning of the legislation is, we can have all the best intentions in the world as a Legislature, but we might write the law such that it can be left to interpretations. That, of course, is what the courts are for.

12:20 p.m.

Dr. Baker: Mr. Sterling, the point is that there are obviously the needs. If you want to clarify the field of ophthalmic dispensing, there is all the need, particularly when you are using technical terminology, like prescription, like prescriber, like duplications, which have all--they must have meanings or else they would not have been there in the first place.

It seems to me that we have a pretty good example that these things have been done. I just cite for you the example of the pharmacy part of the statute, of the ophthalmic dispensers statute. Obviously it was considered to be important under those circumstances, and I just suggest that it is equally important under these.

Mr. Sterling: I just have one more question. The allegations that were brought forward in this particular document--there were five allegations?

Dr. Baker: Yes.

Mr. Sterling: Were they of a nature of complaint, or were they of an allegation that they had done certain--

Dr. Baker: They were the result of our attempting to deal with complaints we received from the public, or through public agencies.

Mr. Sterling: So you received five complaints?

Dr. Baker: We took those five as examples. But we have had others and still continue to have others.

Mr. Sterling: I am having a difficult time in terms of knowing how widespread the problem is. Are there statistics you can provide the committee with?

Dr. Baker: I can tell you that as a matter of fact our complaints committee, under the Health Disciplines Act, and it acts in accordance with that, meets on the average of about once a month. The majority of things that they handle have directly to do with complaints with respect to the practice of some optometrists.

We also, in the interim, and I would say that it averages maybe one or two complaints a month which appear to involve an ophthalmic dispenser--we make a preliminary investigation of the matter, and I think you could receive confirmation from this, that when we finally make that preliminary investigation, or if it is self-evident that it is an ophthalmic dispenser and not an optometrist, I will communicate with the Board of Ophthalmic Dispensers and provide them with that complaint.

At the same time, we usually advise the complainant that this has been done and that they should hear from the Board of Ophthalmic Dispensers as to how they were to handle the complaint.

Let me point something out to you, Mr. Sterling. If you go to the definition of "unprofessional conduct," as a lawyer, and you look at the first section under "unprofessional conduct" in the present regulations, the authorities that they have with respect to unprofessional conduct, particularly in the area of whether they are practising outside of their scope of practice of ophthalmic dispenser, I do not believe can even be addressed by them in a legal sense, even if they wanted to.

Mr. Sterling: What are your comments in relation to the new regulations? I understand that the Ministry of Health sent these to you in August.

Dr. Baker: Yes.

Mr. Sterling: It is a little difficult for me as a committee member to know all of the implications of all of these different new regulations that have been proposed. I think it probably would be more helpful in my view to know what your comments were in relation to these proposed set of new regulations relating to unprofessional conduct as one--

Dr. Baker: Mr. Sterling, let me just try to answer the question this way. I think it is a relatively easy question to answer, but it is a difficult one in terms of appropriate protocol.

Mr. Mancini: Oh, no. If you want to insult the government, go ahead. We have no strictures. We have no objections.

Dr. Baker: I see. It is not a question of insulting. It is a question of dealing with matters in the appropriate order of events. I can report to you that we received a copy of the recommendations proposed by the Board of Ophthalmic Dispensers towards the latter part of August. This was subsequent to your invitation.

We were then advised that we could submit our position with respect to those proposals at a future date. Because the date required was so close, and because we were in preparation for this matter, we did contact the Ministry of Health and got an extension with respect to our posture in terms of the proposed regulations.

We had difficulty in ascertaining what the terms of reference of this committee in fact were. We took it to mean that their chief concern was with respect to how the Board of Ophthalmic Dispensers were presently administering the existing legislation, and therefore our submission was based on that. The state of that particular document to which you refer is it has been sent to our executive committee. It has been sent to our legal counsel, and that group is presently working on it. Subsequently, it will go to our counsel with that working group party's recommendations. That is its present state.

I am very reticent to bring any focus on that matter because as a registrar, while I have some very personal opinions about those, I am not sure what the position of our counsel will be, and I think it would be out of order for me to answer.

Mr. Sterling: So you do not know if it addresses most of the problems brought forward by you?

Dr. Baker: I have a personal view, I am stuck with that, and that is about as far as I want to go.

Mr. Sterling: Can you provide the statistics for our committee in terms of the number--

Dr. Baker: All I can tell you is that the statistics--I guess the answer is, "Yes," by me going back and asking our complaints officer to show me his logs over the past 12 weeks, 12 months, or whatever. I think they will not reveal very much more than what I have said to characterize the nature of it in terms of actual complaints.

We have made some other types of investigations and we are reasonably sure, by sending our people out, that other things are happening, but they are not complaints in the sense you are using it. So we are pretty sure of our ground if that is what is happening.

The only other comment that I have is we have the very strong feeling, and remember this is a document that now is three years old, the memorandum, this is a growing matter and not a diminishing one.

Mr. Sterling: How many complaints would there be in relation to an optometrist in a month to this committee?

Dr. Baker: On the average we address three or four new complaints a month.

Mr. Sterling: I see. The only other thing I would like to get sort of a focus on is if you took the total number of prescription glasses that are dispensed in our province, what

percentage would the optometrists actually be providing to the public, and what percentage would be done by the opticians?

Dr. Baker: I can give you a personal opinion.

Mr. Sterling: That's all right. I don't--

Dr. Baker: I hear all kinds of numbers bandied around. I do not think anybody really knows for sure. If I remember the Restrictive Trades Practices Commission document, and they had a much larger resource group than we have, they had difficulty distinguishing not only the differences, but they had a great deal of difficulty distinguishing actually how many pairs were involved. My personal gut feeling probably is about half and half. It is in that vicinity.

12:30 p.m.

Mr. Mancini: Just a few short questions; it is getting on into the afternoon. You mentioned earlier that your organization receives complaints about the opticians. Why would the complaints go to your organization? Is this a matter of consumer confusion?

Dr. Baker: Yes. It is not unusual, for example, to have complaints for the other side of the coin reach us from various agencies. For example, not often but certainly fairly frequently we will receive a complaint about a physician which goes to the College of Physicians and Surgeons, and we get one back from them which involves an optometrist. Sometimes the Board of Ophthalmic Dispensers gets one about an optometrist. So there is some confusion there. But it eventually gets into the right channels.

Mr. Mancini: So when you say that you get approximately two complaints per month concerning the opticians, that is really not the total figure.

Dr. Baker: Those are the ones we have knowledge of.

Mr. Mancini: You also stated earlier that you have some type of preliminary investigation of these complaints concerning opticians?

Dr. Baker: Very often the person who complains is not very clear about who they saw or what was done, or who did it for that matter. As a result of that, sometimes we will have to correspond with that complainant to determine the practitioner or person involved with whatever it is, and then it becomes clear to us, the nature of his licence or registration--

Mr. Mancini: Your preliminary investigation then is really not an investigation at all. It is just to find out who basically is involved.

Dr. Baker: That is right.

Mr. Mancini: Just to get a clear view that it is a complaint against the optician and you can verify that, and then you send it over. When you send these complaints over to the Board of

Ophthalmic Dispensers, do they correspond with you telling you that they have received your correspondence about the complaints? Do they let you know how they handled these complaints, or do they just acknowledge the matter and your involvement ends there? Is that how it is done?

Dr. Baker: There was, not so recently, but there was pretty good communication in this area. Certainly we were aware and we would be informed that they were looking into the matter. Incidentally, they do not have within their legislation any real process of investigation, for example, as the Health Disciplines Act provides. Sometimes we are advised of the disposition. In that respect, we have no complaint. We sometimes may differ about what their decision was, but as far as the communication is concerned, it is pretty good.

Mr. Mancini: Is there a common complaint?

Dr. Baker: A common complaint? You mean a typical kind of complaint?

Mr. Mancini: Yes, a typical complaint.

Dr. Baker: I think that most of the complaints fall really into three categories: price; the inability to wear the glasses; and, not infrequently, dissatisfaction with contact lenses.

Mr. Mancini: How does that compare with your complaints concerning your own people?

Dr. Baker: Not terribly different.

Mr. Mancini: So we are talking about the same thing. Is that right?

Dr. Baker: Right.

Mr. Mancini: I have no further questions.

Mr. Sterling: Just before the college leaves, I do not know whether it would be possible or not, and I leave this to the other members of the committee, but would it be possible for our researcher perhaps to look into trying to provide us with some kind of statistical basis of the problem? I do not know whether the college could agree to that or not, whether they could provide us with the number of complaints that are received in a certain type of category.

Dr. Baker: We certainly have no objection whatever. As a matter of fact, we do publish an annual report, and generally speaking each committee, including the complaints committee, usually synthesizes their activity for the given year. You are certainly welcome to that, or you are certainly welcome to anything else that we can provide you with that is publicly available.

Mr. Charlton: Both yourselves and the association emphasize this whole scenario about dispensing of contact lenses without a

proper prescription. Do you have any knowledge of, or can you provide us with a way that we can have a look at instances where damage actually occurred as a result of that kind of dispensing you are talking about?

Dr. Baker: I think there is some availability of the information and the answer is, if I have it you may have it. Much of this lies in that in spite of the fact, for example, the public probably has a better vehicle for complaining now than it has ever had before with so many agencies involved, our experience has been that most or many patients who have difficulties with their practitioners or with whatever do not really complain. They do not go formal on this.

We get much of our information and concerns expressed by practitioners to us, optometrists to us, who meet with problems in their offices. Sometimes we encourage the practitioner to try to encourage his patient to complain, because we cannot do anything without a complaint. That is not as easily done as you might think. I guess you are going to have to take my word for it. As I say, anything we have got documented you are more than welcome to.

Mr. Charlton: We would appreciate getting anything you have documented along that line.

Dr. Baker: But much of this unease comes from two sources. One is the source of the practitioner who is meeting a patient who is wearing contact lenses and who is in difficulty and gets into the question of, "Where did you get them, who prescribed them, and why do you not go back to your original prescriber?" type of thing.

The other source of concern that we get which forms the basis of this is the very frequent telephone calls we get from very often identified people, the public, who are in difficulty and who will describe what is happening. I will speak to them. Sometimes I will refer them back to their practitioner, be he the optometrist, be he the ophthalmologist, or sometimes I encourage them to contact the Board of Ophthalmic Dispensers to tell them their story.

It is a constant kind of dialogue that comes about from those two sources. It just happens almost daily.

Mr. Charlton: I think we are reasonably well aware as members how difficult it can be on occasion to get people to lodge a formal complaint on some matters.

Dr. Baker: I would like to make a point of observation, and perhaps hopefully clarification. Most of the discussion, and apparently some of the focus, has got to do with contact lenses. I am not suggesting for a moment that is not important, because it certainly is, otherwise we would not have raised it. But there are equally and perhaps more fundamental problems which are involved in this than just contact lenses.

Mr. Charlton: I understand that. That is the one area that seems probably the most difficult to document, so any sources we

can get documentation from would be useful.

Dr. Baker: I will take your direction and look into it for you.

Mr. Chairman: Any further questions?

We thank you for attending this morning and providing us with your testimony. If we need to contact you, we will do so before we issue that report to the Legislature.

The committee will stand adjourned until two, and I believe Mr. Clement, who knows his way around this building, will be in front of the committee at that time.

The committee recessed at 12:39 p.m.

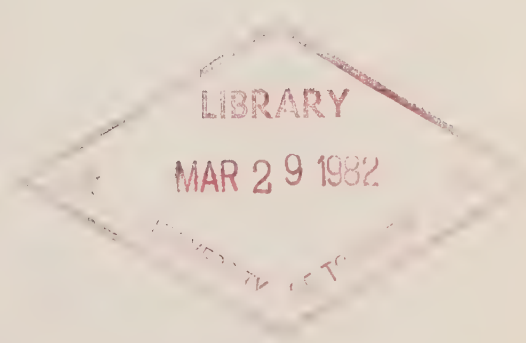
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STANDING COMMITTEE ON PROCEDURAL AFFAIRS
REVIEW OF ONTARIO LABOUR RELATIONS BOARD
WEDNESDAY, SEPTEMBER 24, 1980
Morning sitting



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Ruston, R.F. (Essex North L)
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Research Officer: Eichmanis, J.
Clerk: White, G.

Witnesses:

From the Ontario Chamber of Commerce:

Riggs, C., Counsel
Roscow, E., Member
Simpson, A., Member

From the Ontario General Contractors Association:

Binning, B., Counsel
Foote, B., Director of Labour Relations,
General Contractors' Section,
Toronto Construction Association
Howes, L., Executive Secretary
McMurdo, R., Past Chairman
Thomson, J., Chairman

From the Ontario Road Builders Association and the
Ontario Sewer and Watermain Contractors Assn.:

Delion, C.W., Member
Macdonald, M., Member
Werry, R., Counsel
Wilson, P., Member

LEGISLATURE OF ONTARIO

STANDING COMMITTEE ON PROCEDURAL AFFAIRS

WEDNESDAY, SEPTEMBER 24, 1980

The committee met at 10:15 a.m. in committee room No. 2

REVIEW OF ONTARIO LABOUR RELATIONS BOARD

Mr. Chairman: We will call the meeting to order. The hearings this morning are the beginning of the review of the Ontario Labour Relations Board. The first witnesses before the committee this morning are from the Ontario General Contractors Association. Mr. McMurdo is the chairman.

I think the clerk has explained to you that we are taking testimony under oath this time, so I am going to follow the procedure we began yesterday and swear them in one at a time. The easiest way to do that would be for you to simply introduce the people you have with us this morning.

Mr. Thomson: We have had a change of officers since we made application. I, as chairman, will be introducing our group.

J. Thomson, sworn.

Mr. Thomson: Mr. Chairman, first I would like to briefly introduce the members of our group. Over on the far side here is Mr. Brian Foote from Toronto. The next person is Mr. Robert McMurdo, past chairman, from London. Beside me is Mr. Bruce Binning, our solicitor. On my right is Mr. Leo Howes, our executive secretary.

B. Foote, sworn.

R. McMurdo, sworn.

B. Binning, sworn.

L. Howes, sworn.

Mr. Thomson: The Labour Relations Bureau was organized in 1977 to represent the unionized general contractors of the province in provincial labour negotiations in the industrial, commercial and institutional sector of the construction industry as required by Bill 204, which was proclaimed in force in December 1977. As such, we are directly involved in about one third of the negotiations for collective agreements in the industrial, commercial and institutional sector of the construction industry. Our solicitor, Mr. Bruce Binning, will give our submission.

Mr. Binning: Members of the committee, our submission really is fairly simple this morning. In recent years the Ontario Labour Relations Board has been given powers that are equal to or exceed the powers of the Supreme Court of Ontario. By way of illustration I just want to mention a few sections of the act, firstly section 79, which really gives a board unlimited power.

There have been two widely publicized cases recently under that section, the Radio Shack case and the Canadian Westinghouse case. To give you some idea as to the extent of those decisions, the union in the Radio Shack case is claiming damages as a result of that decision in excess of \$500,000.

Another section which has great ramifications is section 81, which deals with jurisdictional disputes between trade unions. I was personally on a case some five or six years ago where the decision there had a direct result again of about \$500,000.

Then section 82 and section 123 are the injunction sections of the act. As you recall, the courts used to issue injunctions on illegal strikes and illegal walkouts. The Legislature gave that power to the labour board and not only did the Legislature give that power the same as the courts formerly had but, in fact, expanded the power. Whereas the courts before would not order men back to work in an illegal strike situation, the board is given that power to direct employees to return to work, so their powers there are in excess of the powers formerly exercised by the courts.

10:20 a.m.

Lastly section 135, which gives the power to the board to determine in what sector in the construction industry a particular project will fall. That particular power and the exercise of that power could have ramifications of many millions of dollars.

It is our position that the appointments to the board under section 91(2)--and here we are talking about chairman and vice-chairman, we are not talking about the side members--have been grossly inadequate. Because of the powers that I have cited to you, the appointments under the act have been made of grossly inexperienced people. As a result of those appointments, I think it is fair to say that employers as a group have no confidence that a right decision will be rendered by the board.

Secondly, the proceedings, because of the inexperience of the chairman and the vice-chairman, have become very lengthy and, because of their inexperience, they have difficulty in defining the true issues and as a result we have days and days of hearings, whereas if you had the experience of a Supreme Court justice it might well be reduced to half a day.

So it is our submission that in making your appointments, in the light of the power that you have given the board, the true standard for chairman and vice-chairman should be the same standard as apply in the appointment of Supreme Court justices.

Furthermore, in regard to the extraordinary powers that you have given them--we are not talking now about the powers you have exercised for years and years and, as you are all aware, the board was established during the war years and immediately following the war years to create bargaining rights in favour of trade unions, but the Legislature since those days has seen fit to give them much broader powers and, in essence, have taken certain powers away from the courts and given them to the board.

It is our submission, firstly, on a question of appointments, we have already touched that; secondly, we believe that there should be a transcript of the proceedings when a board is exercising these extraordinary powers and we believe that there should be a right of appeal. Again, consistent with what we said earlier about the appointments, in view of the fact that in essence they are acting as a Supreme Court as far as powers are concerned, that the appeal should be directly to the Court of Appeal. Those are basically our submissions at this time.

Mr. Chairman: As you know, you have a copy of the researcher's report and I just want to point out for the record we will put down the questions that are focused there and maybe elicit a response from you.

Mr. Binning: We do not have a copy of the report.

Mr. Chairman: I am sorry, that is an oversight on our part. John, would you see if you can rustle up some additional copies for them?

In essence you have focused on a number of the areas where our research indicated that some concerns might be put forward. We tend to focus, as a committee, to look at the agency involved and to try to get some determination of whether the agency is performing a useful function, whether there are changes in acts which should be made in order to facilitate the role of the agency. We want to know what the relationship is between the agency and those people who come before it.

In this case it is of a regulatory nature so we are interested in does it work, does it serve a useful function, are there changes either in the procedures which the agency uses or the legislation under which it operates which should be made to let it do a better job. Those are essentially the scope of the investigation that we are doing on agencies at all levels.

I did not hear you make any specific reference to amendments to eliminate procedures which might be, in your opinion, unfair. You pointed out some sections of the act which cause problems, but you did not suggest changes in the act, and you stopped just short. In a number of remarks, though you were quite pointed on it you did stop short of saying that the whole process should be scrapped and you should go back through the courts. Could you just elaborate slightly on that?

Mr. Binning: That is not our suggestion, that the whole process be scrapped. I think the two amendments we did suggest were, one, to make certain of the proceedings transcribable, and that would require an amendment to the act; and, two, that there be--

Mr. Chairman: Could I just stop you there? Could you explain to me why you would have to have an amendment to legislation to get a transcript of proceedings?

Mr. Binning: There is nothing presently in the act requiring that there be a reporter to transcribe the proceedings.

Mr. Chairman: And the board has taken the position that if there is not that requirement, they will not provide the transcript, is that right?

Mr. Binning: That is correct.

Mr. Chairman: Are there other parts of--

Mr. Binning: We are careful; we are not asking that there be transcripts of all the proceedings, just in the extraordinary remedy situation where you have given them great powers, and those powers have been largely given since 1970. We do not want to bog down the whole procedure, that is not our desire at all, but when you start talking about decisions that have million-dollar ramifications, we are getting very concerned.

Mr. Chairman: The other side of that coin is, are there any areas where you think the act should be amended to extend the scope of the act?

Mr. Binning: No. No, we think--

Mr. Chairman: You would rather fall on the other side of that argument?

Mr. Binning: We are not asking that the power be taken away, but our point is very strong--at least we want to make it very strong--that the appointments to the positions of chairman and vice-chairman have been wrong. I want to be very strong on that, and in many cases the appointments have been made fresh out of law school without any experience at all.

We again say that the standard should be that of a Supreme Court justice which, as you know, requires years and years of practice and experience.

Mr. Chairman: What about the powers of the board, should they be expanded or contracted?

Mr. Binning: I think it would be foolish for us to come to you and say they should be contracted, but they certainly should not be expanded, until you correct the inadequacies that we have mentioned.

Mr. Chairman: You did not seem to dwell very much upon the role of the staff of the board. Is there a staffing problem which causes these long trials? You have really focused in on the people who sit on the board.

Mr. Binning: The chairman and the vice-chairman are the people who control the proceedings, and that is where the fault lies, as we see it, not in the examiners and the side staff members, there is no great problem there. The real problem is in the conduct of the hearings themselves, which is controlled by the chairman or the vice-chairman.

Mr. Chairman: So in getting right down to it, your very straightforward presentation to the committee this morning, like

several others with other agencies, homes indirectly on chairman, vice-chairman, those who control the proceedings of the board, and you did use words like "grossly inexperienced," that you have no confidence in them at all and that they ought to be the equivalent of a Supreme Court justice. That is where you obviously, after some thought, have focused directly on one aspect of the board, that aspect of appointing the chairman and the vice-chairman.

Mr. Binning: That's correct.

Mr. Chairman: And you think that if that were rectified, the process would--I do not want to put words in your mouth--be a workable one?

Mr. Binning: Yes, together with the transcriptions and the right of appeal.

Mr. Chairman: Okay, so with those two changes. You have not dwelled in your presentation this morning on any particular kinds of problems.

10:30 a.m.

Mr. Binning: I mentioned jurisdictional disputes. Certainly there the problem has been the length of proceedings. That was section 81. In section 135, we have done our best not to have the board make any decisions on sectors because we are fearful of what they might do with it.

For example, we have had several cases, Yogi Bear land on Highway 400--it is Yogi Bear land. Had the board said that whole project was under the ICI sector, it would have cost millions more in rates because the spread between a roadbuilder rate for a operating engineer and a rate for an operating engineer in the ICI sector would be as much as \$4 an hour. So those are two examples.

In regard to the injunction proceedings, our complaint there is that the board takes about anywhere from three to five days to have a hearing. Now an illegal strike can kill you in five days, depending at what stage your project is, if you are talking construction, or if you are talking about other than construction, as to whether you distribute, say, groceries. We have had a couple of illegal strikes at the Oshawa Group and we have had to try to go to court to get in an interim order immediately, otherwise the damages are colossal.

So they are not acting as quickly as they could. That does not require amendment because, the way I read the regulations, you could give notice by telephone and the board could set up, as it were, something similar to the courts where you could have motions on fast notice. They have failed in that area, in clearly illegal acts; they are not fast enough in dealing with them.

Mr. Chairman: Have you made these points known to the board in any way, shape or form? Have you made representation to the board itself, to the Minister of Labour, to cabinet, whatever, indicating your displeasure with the appointments, with the fact that you cannot get transcripts when you want them, you don't have

appeal? Have you formally tried to contact and explain these problems to them?

Mr. Binning: No.

Mr. Chairman: Is there any reason why you have not done that?

Mr. Binning: We have made, not official positions, but we don't know how far they have gone, but certainly these are not new ideas. For example, the Radio Shack decision and the Canadian Westinghouse decision are relatively new, and we did not believe the board would go that far in the exercise of the powers under section 79.

Mr. Chairman: Have you ever written letters to protest the appointments to, say, the Premier (Mr. Davis)?

Mr. Binning: I do not think that would be wise when we have to appear before that board almost on a daily basis.

Mr. Mancini: Then why is it wise now?

Mr. Binning: We are not mentioning any names. As you can see, we refuse to discuss particular decisions and we are not here to talk about the rightness or wrongness of the Radio Shack decision because again we have to appear before that same chairman.

Mr. Sterling: But then you criticize the chairman and the vice-chairman now.

Mr. Binning: As a group.

Mr. M. Davidson: There is only one chairman.

Mr. Binning: Yes, but we are not talking about the incumbent chairman. I do not want it suggested--

Mr. Rowe: What are you talking about?

Mr. Binning: We are talking about chairmen, period, that have been appointed over the last 10 years.

Mr. Rowe: How do you think a judge--I have seen court decisions delayed quite a while too. I just don't understand the rationale of your argument of why a person, who had either legally training or whatever he is, is going to just do it in half an hour by comparison.

Mr. Binning: They do it all the time. You go in a court and the judge will say: "I am not interested in that point at all. Here is the issue, here is the thing you have to answer." I have been in several court hearings where the court has taken that position and the judges are not interested in that, not interested in evidence at all. "Here is the issue. You put in evidence on that issue or you give argument on that issue."

The board won't do that because of their inexperience, because they don't even know what the issue is until about six days of hearings. That is what we are complaining about.

Just look at the qualifications of the people who have been appointed chairmen and vice-chairmen. Just look at them and compare them to the appointments of the Supreme Court. There is no comparison, no comparison at all.

Mr. Rowe: I have seen trials go on too.

Mr. Mancini: Mr. Chairman, I would like to ask Mr. Binning, what are some of the qualifications of these past appointments? Could you inform the committee of these past chairmen and vice chairmen that have been appointed to the board?

What have been some of their qualifications? You stated that we should look at their qualifications and we could see immediately that they were not prepared to take on this type of work.

Mr. Binning: It is the lack of qualifications more than the qualifications. For example, in most cases with the exception of one, they have been lawyers. Just look at the dates they graduated and were called to the bar and when they were appointed chairmen or vice-chairmen.

Mr. Mancini: You feel they should have had some work experience in the field dealing with unions and industry before they went to the board?

Mr. Binning: They are making the same decisions as to evidence, as to issues that the Supreme Court judges are. Right now they are in the dollar realm of the Supreme Court. That is what we are saying. It is becoming a serious business that way.

Mr. Mancini: So would that be your biggest complaint about the recent appointments and past appointments, their lack of experience?

Mr. Binning: Correct. Judicial experience.

Mr. Mancini: Lack of judicial experience. Is there any other area other than judicial experience where you feel they have lacked in qualifications?

Mr. Binning: No.

Mr. Mancini: This is the point.

Mr. Binning: What we are really saying is that you have created the Ontario Labour Relations Board really as another court. Where it used to be dealing only with certification and the creation of bargaining rights, you have now given them extraordinary powers.

Again, I express it in millions of dollars--and their decisions do have that impact now, which they did not have before.

All I can say is that you have to look at judicial experience, or at least legal experience, because they are exercising judicial functions.

Mr. Mancini: Although I may agree with you on the point that we certainly do need experienced people to sit in these powerful positions, I do not think I can agree with you, Mr. Binning, that we would get a faster decision, say, from a Supreme Court justice or from people in the legal field. I have been approached by many constituents who have complained bitterly about the time it takes to get into court and get cases heard then, after they get into court, they are adjourned after half a day.

But that is a different subject altogether. I just bring this up as an information point for you that I do not necessarily agree with you completely on that point. I do not know if we should get into a debate about that or not. I just wanted you to be aware of that.

I also want to ask you; you mentioned that under section 135 the board decides what sector certain construction projects may fall under.

Mr. Binning: That is correct.

Mr. Mancini: My question to you is if the board cannot decide which sector the projects come under, who can?

Mr. Binning: I think the failure in the act is that the sectors are not defined. What has to be done, and this is one area where we have made submissions to the deputy minister, is to get the industry together to define the sectors so that, clearly, you would know where a project falls. But the act is not defined as such.

Mr. Mancini: I have sat on other committees, Mr. Binning, and, as you say, we found it very difficult to define these sectors because on some buildings your first four or five floors may be business and the next four or five floors may be residential, and you get into some confusion here. So I think you can appreciate the fact that we do need some flexibility in the act and that we do need people to decide which sectors a particular work or project may fall under.

Mr. Binning: We would not have any problem with the example that you gave because in Toronto we have defined it that if it is more than 50 per cent residential the whole project is residential. That is the kind of definition we need. These definitions can be made as between roads, sewers, et cetera.

Mr. Mancini: You are telling this committee then that within Metropolitan Toronto you have no problems with the definition of work or projects?

10:40 a.m.

Mr. Binning: Not as between residential and industrial, commercial and institutional. We do have problems between ICI, if

I might use that term, and road sectors. We do have problems there but we have negotiated our way out of those problems up until now.

Mr. Mancini: You have those problems even in Metro then?

Mr. Binning: Yes.

Mr. Mancini: Then that leads back to my original question. Do you not think we need somebody to decide these projects?

Mr. Binning: Yes, but not the board.

Mr. M. Davidson: Who would you suggest?

Mr. Binning: I think that the ministry should call a meeting of both employers and unions and define it through that meeting. But instead of that it has been given to the board. We are just fearful of ever going to the board on that issue. So as a result where there has been a problem up to now, as I say, we have negotiated our way out of it. But it cannot go on for ever.

Mr. Mancini: You also mentioned sections 82 and 123. Those were the injunction sections. You seemed to have some difficulty with either those particular sections or the way the board handled those sections. I could not actually get a handle on what your complaint was about those particular sections. I know that you mentioned them in passing.

Mr. Binning: I mentioned them originally to indicate that you had given more power to the board than the courts were exercising before you gave them that power. I was just indicating to you that you had given the board powers in excess of the powers the Supreme Court had. In other words, you had given them injunctive powers greater than the common law. I mentioned it to show how responsible you are making that board.

My second thing was they are not moving quickly enough on a hearing under those sections.

Mr. Mancini: Can you give us some examples?

Mr. Binning: They take anywhere from three to five days. If we filed today it would take anywhere from three to five days to get a hearing.

Mr. Mancini: How long would a hearing usually last?

Mr. Binning: One day.

Mr. Mancini: So you are looking for a hearing within 24 hours. Is that what you are looking for?

Mr. Binning: The day the illegal strike or illegal lockout takes place, that day; they can give notice by phone.

Mr. Mancini: I see. Do you think that is possible?

Mr. Binning: Yes, we have done it in court. We used to get ex parte injunctions within six hours of when the strike started. We have got several in our office in our filing cabinet.

Mr. M. Davidson: So what you are saying is it would be preferable to issue the injunction and then it would not matter when the hearing was held.

Mr. Binning: No, the hearing would be held immediately. I am not asking that the injunction be issued without hearing the facts, but just get the parties together. The parties can be reached. You can almost get them by phone and say: "Appear at 1:30. We are going to hold a hearing on whether or not there is an illegal strike."

Mr. Mancini: You are talking about the actual hearing. You can go before the board and make your case, or the union can go before the board and make their case.

Mr. Binning: That is correct.

Mr. Mancini: You seem to have several complaints about what you consider to be the board's unlimited power. You keep bringing up the issue of Radio Shack and Westinghouse.

Mr. Binning: Yes, Canadian Westinghouse.

Mr. Mancini: I was wondering if you could expand on that just a little more so we can get a better idea. You mentioned the fact that there are sums of money involved now, et cetera. I was wondering if you could give us a clearer package of what you think the board's unlimited power is all about.

Mr. Binning: I was not critical of giving them the power but, again, I mentioned those sections in order to make you aware of the fact that you have given them a power that results in extensive damage awards. Again, I cited that because what we say is that you have not then considered the appointment of the people to administer that when you have given them this great power.

Mr. Mancini: So you are complaining about the decisions then, not the unlimited power, and the people who make the decisions.

Mr. Binning: We are complaining about the people who make the decisions. They are grossly inexperienced, I will use that term again.

Mr. Mancini: And, therefore, the decisions themselves.

Mr. Binning: I mean they might be right, even though they are inexperienced but we do not want the risks involved in that kind of gambling.

Mr. Ruston: In other words, what you are saying is that you do not feel the quality of the people and their background make them capable to make a decision that may cost you \$1 million. You

would rather have someone with a little more experience making that decision.

Mr. Binning: That is correct. Do not use the term "quality" because I do not want to attack any of them. They are not responsible for their inexperience.

Mr. M. Davidson: No, but if the decision is costing \$1 million, you would feel much better about that because it was a more qualified person sitting in the chair.

Mr. Binning: No, not at all. It is a question of competence.

Mr. Ruston: If a judge is going to hang me, I would rather he would be a Supreme Court judge than a lowly appointed provincial court judge.

Mr. Binning: If you lose at any level you are not happy. You know that.

Mr. Sterling: How do you find out--can you find out specific examples of where the inexperience has worked to the detriment of the board?

Mr. Binning: I am not prepared to be critical on any decisions, because again, as I say, we have to appear there tomorrow and we are going to be facing the same chairman I have just been critical of. I think what we are saying is obvious. You look at the powers you have given, then you have to look at the people who administer those powers. It is that simple.

Mr. Sterling: I am not familiar with when most of the members of the board were appointed. How long ago were most of the appointments made?

Mr. Binning: A lot of them have been made in the last five years, some in the last three or four years.

Mr. Sterling: When has the jurisdiction of the act opened up (inaudible)? When has the decision power become more important?

Mr. Binning: I think since 1975. It is in the past five years when you have given them these great powers.

Mr. Sterling: So really prior to 1975 the inexperience, as you describe it, was not nearly as serious.

Mr. Binning: That is correct.

Mr. Sterling: When the chief judge of the provincial court appoints a judge, there is a judgement call made by the judicial council. It is possible they could make an error as well.

Mr. Binning: No doubt about that.

Mr. Sterling: They can make an error, I guess, in whatever.

I guess the Ontario Labour Relations Board--I do not know how it would be perceived by the legal community in relation to the other kinds of judges, whether they would perceive it as being equivalent to a Supreme Court of Ontario judge or not.

Mr. Binning: We are making the submission.

Mr. Sterling: It is your thought that it is because of--

Mr. Binning: I am speaking not only on my own behalf, but on behalf of our firm, which is one of the largest in labour relations in the province, or in the country. It is certainly shared by all my colleagues in our firm. I tried to illustrate that with the types of cases we were talking about.

Mr. Sterling: Would the senior members of your firm, for instance, consider an appointment to this board?

Mr. Binning: Not at what they are paying. Which leads to another point, you only get what you pay for. I do not know what you are paying, but I have a good idea from rumours. Since I am under oath, I do not want to say that I know it as a fact. But I think it is about one third of what a Supreme Court justice gets, roughly.

Mr. Sterling: I think you have a problem there. It may not be a matter of a choice on the part of government in terms of appointing them, other than elevating the scale of their remuneration. If you offer--what are they getting paid, John? Do you know?

Mr. Eichmanis: I am sorry. (Inaudible).

Mr. Chairman: But you will find that? Okay.

Mr. Binning: I guess somewhere between \$30,000 and \$40,000.

Mr. M. Davidson: Mr. Binning, you referred to section 135 dealing with industrial/commercial/institutional, and the right of the board to make a determination as to which category. How often have your people appeared before the board requesting a determination as to which sector--either yourself or the unions that represent the workers?

10:50 a.m.

Mr. Binning: We have avoided it. We have had several grievances filed which would have involved 135, but we have settled it before it got to the board. So both the unions and ourselves are fearful of any precedent that the board might create in this area.

We have had 10 or 15 grievances that would have resulted in a determination under 135 in the last year. More than that. As I say, we have negotiated our way out of them. A lot of them had been adjourned sine die.

Mr. M. Davidson: You say you have negotiated your way out of them. I take it the grievance was filed by the union because you had classified it as something other than what the union felt it was.

Mr. Binning: The ICI, that is correct. And we have made side deals in order to avoid the issue.

Mr. M. Davidson: You would prefer to negotiate that way?

Mr. Binning: No, no. It has got to be settled. The definition of sectors--it has got to be settled.

Mr. M. Davidson: Why would you not make a test case before the board to see what kind of a determination they would bring down?

Mr. Binning: That is what we are fearful of. We have no confidence that they will make a right determination on that issue.

Mr. M. Davidson: How then can we, as legislators, accept the argument that the act is wrong in what it says, if, in fact, you have never been before the board to prove it is wrong? You have never had a case before the board.

Mr. Binning: We would not want to take the chance. Because if you--what I am saying--

Mr. M. Davidson: If you do not know what kind of a decision they would bring down?

Mr. Binning: When millions of dollars are riding on the decision, you have to have confidence in the tribunal you appear before, before you voluntarily go before them, and we do not have that confidence on this issue.

Mr. M. Davidson: You have expressed that you have no confidence in the chairman and the--

Mr. Binning: No, I did not say that. Don't put words in my mouth.

Mr. M. Davidson: In the position of the chairman, not the chairman per se.

Mr. Binning: No. I have no confidence in the way you people have appointed the chairman and the vice-chairman.

Mr. Mancini: Don't blame us for that.

Mr. Binning: Whoever does it (inaudible).

Mr. M. Davidson: I really do not see where that makes a difference in the terminology. The position is there and there is someone in that position, and you apparently have no confidence in it.

Mr. Binning: I want it clearly understood I am not being critical of Mr. Adams.

Mr. M. Davidson: I am not meaning Mr. Adams.

Mr. Binning: I want that clearly understood because I do have to appear before him.

Mr. M. Davidson: But you lack confidence then in the top two positions of the board apparently.

Mr. Binning: No, the vice-chairmen, or all the chairmen--there are how many?

Mr. M. Davidson: I have a list before me of board members, some of whom I know very well, some of whom I have some knowledge of, and some I have no knowledge of whatsoever. Many of these people, to my knowledge, have extensive backgrounds in labour relations, both from the management side and from the union side of the matter.

I am sure you are well aware that a board hearing does not just involve the chairman and the vice-chairman. The board hearing is made up, normally, of a panel of three.

Mr. Binning: I have been practising labour law now for 18 years. I have been appearing before that board for 18 years. I know what the makeup of the board is. I think you are probably referring to the side members. I am not being critical of the side members.

Mr. M. Davidson: No. But you are saying that the board somehow or other lacks some experience.

Mr. Binning: In the chair.

Mr. M. Davidson: In the chair. I am suggesting to you that the overall makeup of the board probably, in terms of number of years, both management and labour, is extensive.

Mr. Binning: I am not talking about the side members. I am talking about the chair.

Mr. M. Davidson: But they are there. They help make the decision.

Mr. Binning: No. The chair controls it. The side members are there as experienced people in labour relations. I do not question their experience. I know them well. I know most of them personally, I am not questioning their experience. But the chair is where the judicial function is exercised.

Mr. M. Davidson: You referred earlier to decisions handed down and you said that was because of the lack of experience. I am suggesting to you those decisions were made by persons who have, in fact, on the whole been involved quite extensively in the labour relations field, both from the management point of view,

and from the trade union point of view, and they sit on those panels.

Mr. Binning: You are talking about side members. It is the same as arbitration. One is appointed by the company, and one appointed by the union. But the chairman is the one who makes the decision. I am talking about the chairman or the vice-chairman.

Mr. M. Davidson: It is either supported or not supported by the existing panel members.

Mr. Binning: That is right. And if it is in favour of the union, the union rep agrees with it, and if it is in favour of management, the management rep agrees with it. That happens in most cases.

Mr. M. Davidson: I agree. It does happen in a number of cases, but there have been cases where the board agreed in its entirety.

Mr. Binning: Yes. Probably an error, but yes.

Mr. M. Davidson: I am not going to comment on that.

Mr. Binning: No.

Mr. M. Davidson: You mentioned two cases where, apparently, the inexperience of the people involved had brought down a decision that--

Mr. Binning: I did not say that. Do not put words in my mouth.

Mr. M. Davidson: I am not intending to.

Mr. Binning: I mentioned Radio Shack and Canadian Westinghouse--

Mr. M. Davidson: You suggested Radio Shack and Westinghouse were examples of where the decision of the board somehow or other put these companies into a position that it is going to cost them some money.

Mr. Binning: I just--

Mr. M. Davidson: My point is this. Both of these are--

Mr. Binning: Lots of money.

Mr. M. Davidson: --within the industrial sector. Can you give us an example in the construction industry where this has taken place?

Mr. Binning: I gave the example in a jurisdictional dispute where the implications were half a million dollars. Fortunately, the board made the right decision. They agreed with our argument. But had they gone the other way, it was half a million dollars. And that was in the Montreal River project up north.

Mr. M. Davidson: I guess it depends on which side of the fence you sit as to what is the right or the wrong decision.

Mr. Binning: No, I have not addressed my remarks that way. What I have said would apply equally to a union that has lost a case as it would to a company that has lost a case, the inexperience of the chair.

Mr. M. Davidson: We will find that out from the unions later. They are going to be appearing before us. We will see if they put forward the same argument that you are putting forward.

That is all for the moment, Mr. Chairman.

Mr. Chairman: There is one point you touched on a couple of times which does intrigue me a bit. You did say there are certain things which you really do not want to go before the board, and in order to avoid that, you, I think your word was "negotiate" your way out of a situation.

That is an interesting concept where the government sets up a board like the labour relations board to deal with disputes. One of the parties decides they do not want to risk going before the board on a matter and feels free to, to use the polite word, "negotiate" around that situation.

It is an interesting concept. If you extrapolated that, for example, into criminal law, it would obviously be seen as a no-no. Has anyone ever challenged your right to, as you say, "negotiate" your way around the jurisdiction of the board?

Mr. Binning: The only way you can successfully negotiate your way around it is if the union agrees with you in your negotiations.

Mr. Chairman: That is right.

Mr. Binning: So it really takes both parties to successfully negotiate.

Mr. Chairman: No, that is not my point. My point is if the province, in its eminent wisdom, set up this labour relations board to deal with all these labour matters; the government has said that is how it wants the problem resolved, and you, in conjunction with the other party decide, "Neither one of us really wants to go before that board, and we are going to negotiate our way around this thing."

Has anyone every challenged that process and suggested maybe that is not an appropriate way to do it?

Mr. Binning: I think it is fair to say the view that has been taken by the board is if the parties can agree, the board does not want to have jurisdiction in the matter. They encourage negotiations.

Mr. Chairman: I understand they do but I am trying to get at the question of whether that seems to be legitimate by all

parties. Has anyone ever challenged that?

Mr. Binning: I think it is legitimate, in my opinion. I do not know of anybody having challenged it. The only time that anybody might challenge it is if they are affected by the decision.

For example, an individual employee could be affected by a settlement we might make with a trade union, and there have been complaints by the individual that he was not properly represented in that settlement.

Mr. Chairman: That would be the other end of the system here.

Mr. Binning: Yes.

Mr. Chairman: Obviously where I get most of my complaints is that some individual comes in and says: "I do not know what happened here. I thought we had a grievance going and I thought my union was going to represent me. The first thing I know there is some big negotiated deal out there." You usually get into much stronger language than that.

It strikes me those individuals really do not have much of a recourse because both parties have agreed. I am just wondering if anyone has ever challenged, in a formal way, the propriety of such actions.

Mr. Binning: As I say, leaving aside the individual employee's complaints--

Mr. Chairman: Yes.

Mr. Bining: --not to my knowledge.

Mr. Chairman: What redress is there, to your knowledge, for anyone who is caught in such a situation?

Mr. Binning: For an individual employee, he has the unfair representation section, 60. He can file a complaint with the board. There are an increasing number of section 60s going before the board. But that really is the only recourse.

Mr. Chairman: That is about it.

Mr. Binning: Yes.

Mr. Chairman: No one has ever suggested that any of these negotiated settlements are illegal, improper, or whatever?

Mr. Binning: No. With the exception of the individual employee, that is correct.

Mr. Rowe: (Inaudible) misunderstand the individual would be affected the same whether it went before the board or was settled outside?

Mr. Chairman: No. He never gets his day in court this way.

Mr. Binning: That is correct.

Mr. Chairman: That is the problem. You did point out that in some of the construction trades, for example, here in Metro, you have agreed to kind of a definition of what sector is going to do what.

Mr. Binning: Yes.

Mr. Chairman: Does that hold as a precedent then for anywhere else, or has that ever been attempted?

Mr. Binning: It has only been applied in the Toronto area because the Toronto Building Trades Council have agreed with the apartment builders on that definition. Then everybody else to date have accepted that as a proper definition between the two sectors.

11 a.m.

Mr. Chairman: I understand that. The question is have you, or has anybody else, tried to extrapolate that and call that almost a precedent and use it elsewhere?

Mr. Binning: A case has not come before the board where we would do that, but we probably would use that if such a case did come before the board between residential and ICI. We would put the Toronto agreement forward, yes.

Mr. Chairman: So in essence, once you do negotiate your way through this kind of a situation you then hold that on file and that becomes your model which you use elsewhere.

Mr. Binning: That is correct.

Mr. Chairman: But again, that is not one of the things which you want the board to do.

Mr. Binning: We do not want them to make the determination on sector. We would ask you to eliminate section 135, yes.

Mr. Mancini: I have one further question I omitted in my earlier questions.

You mentioned something about an appeal process and you felt that you should have the right of appeal to a decision made by the board. I was wondering why you felt so strongly about that.

Do you not believe we should have some finality to the matter once it is addressed? Do you not believe that this would further lengthen the matter which you so bitterly complained about earlier, that it takes three to five days to get a hearing for an injunction matter or something, and if there was a right to appeal it might take another three to five days? Do you not feel that your request for an appeal is almost in contradiction to your request for faster hearings?

Mr. Binning: No, because I indicated that the right of appeal would only be on certain of the extraordinary powers that you have given. There are rights of appeal in the US from the National Labour Relations Board to the courts, but here the only appeal you have is if the board exceeded their jurisdiction. To get that, without a transcript or a denial of natural justice, is really no appeal.

What I am saying is that on that three to five days I talked about, that is where it is a clear illegal strike or illegal walkout. You might appeal it, as injunctions have been appealed, but if you appeal that kind of thing it is only for a matter of principle, because by the time it does get to the Court of Appeal, you are right, it would be three or four months later, at the earliest.

Mr. Mancini: I just think there should be some finality to these things. I think everyone should have their day in court but there must be some finality. We have to be reasonable.

Mr. Binning: My concern is the more powers you give to the board, the more essential it is to have some control on the exercise of those powers, and the only effective way that we know is the court system where there are at least two appeals, to the Court of Appeal and then to the Supreme Court of Canada in the appropriate case. I am only saying the greater the powers you give, you have got to consider some sort of control on those powers and one of the only ways is by way of appeal.

Mr. Sterling: In the cases that you have been involved in and you have lost--I presume you lose the odd one?

Mr. Binning: Quite a number.

Mr. Sterling: I guess what the concern here is do you just exacerbate the situation by providing an appeal process. In other words, if you lose one--and, like you say, nobody likes to lose--you just go through the whole appeal thing as a natural path so everybody ends out in the Supreme Court of Canada if the appeal process goes that way. There are large amounts of dollars involved.

I am sure that there are injustices probably done in every judicial system, there are mistakes made. I have not heard an outcry that there have been a lot of mistakes made. You may disagree with me, I do not know.

Mr. Binning: Consider this an outcry. There certainly have been errors made, probably on both sides, I do not doubt that. I am sure that the unions have suffered from bad decisions as well, I do not question that at all. Our main concern again is the fact that there is a greater chance of a correct decision with experienced people in the chair.

Mr. Sterling: I could not disagree with that. When you were talking about the injunction process, this is an interim injunction you apply for normally, is it, or is it a permanent injunction?

Mr. Binning: It is permanent in the case of sections 82 and 123.

Mr. Sterling: So you feel it could be that quick when both parties would be involved. It is not an ex parte application?

Mr. Binning: No, we are not asking ex parte. We believe that both sides should have their say, but we say it can be done very quickly.

Mr. Sterling: If management has suffered a financial loss--I am not very familiar with the board, I have never practised law in that area--there is no sanction that the board can award damages against the union?

Mr. Binning: No, they awarded extensive damages in the Radio Shack case.

Mr. Sterling: Against the union?

Mr. Binning: No, against the company.

Mr. Sterling: Can they do it the other way around?

Mr. Binning: They can assess damages in an illegal strike against a trade union. They could do it under unfair representation, as we mentioned, and assess damages there.

Mr. Sterling: Is that often done?

Mr. Binning: Not often. We have had two or three cases, though, where damages have been assessed against the trade union, usually in favour of an individual employee.

Mr. Chairman: Could I just pursue one final point with you? You have said on a couple of occasions now on the matter of injunctions that you want to have ready access to that, that it would be a relatively simple matter to call both parties in by phone or otherwise and get a resolution to it, which is a reasoned argument, as they say. But part of the whole mystique of labour law here in Ontario is the kind of unseen things which happen, the kind of cooling-off periods which occur.

I guess the argument on the other side of the coin would be that if there is some kind of work stoppage occurring somewhere, they do not want to really zap this thing into the labour relations board. The guys are walking around the plant in the morning; you zap it in there at 11 o'clock; you get your injunction at 12; the cops are down there at one, and what you have is a full-fledged battle between the police force and whoever might be engaged in either the lockout or the work stoppage.

You should really let everybody cool off a bit for a day or so and then they will all go down to Toronto and the lawyers will meet, and by about the third or fourth day all the hotheads will have had a chance to say what they want, cooler heads will prevail and there will be little meetings by the ministry here and there and in hotel rooms downtown.

You are kind of running against that, you are saying you really want to sharpen that up, you want to get right in there the first day and three hours after there was a disruption get a binding injunction that says this is or this is not legal.

Mr. Binning: We want that immediate action because in the recent case that I was on the damages were \$50,000 a day. You do not want a cooling-off period when you are suffering those kinds of damages. Do not forget, when I talk about injunctions under sections 82 and 123, those are clear violations of the act, they are clearly illegal strikes or illegal walkouts. We are not talking about a questionable thing.

Mr. Mancini: If the workers were locked out for three days I do not know how they would feel about that. I think they would want to get back to work if they are able.

Mr. Chairman: I think the problem that you have touched upon really is that there is a lot of, in a sense, very formal proceedings dealing with labour matters in this province, and there is also another element to it, a whole other side to it, of kind of, "Let's talk this over; let's go out for a walk; let's meet downtown; let's bring in other parties." It is not formal arbitration, both parties would reject the use of that term, but there is always intervention.

Mr. Binning: There is always negotiation.

Mr. Chairman: Yes, it is the word that you use, we can kind of negotiate this thing. I do not know how many phone calls I have had from people late in the evening or early in the morning saying, "Let us see if we can sit down and talk this thing out and get these two parties together." So formally there is a process which is laid out in law and everybody can see, but in addition to that there is a whole other world in operation.

I am not so sure, for example, that you would be happy with the end results of such rapid decisions on that matter. Part of the defence on the other side of the argument is simply that in Ontario labour history we have never had a great deal of unrest, disruption, property damage, damage to life, and every time we get into a situation where there is intervention on the part of police officers, as an example, society as a whole really does not know how to deal with that question. You are saying sharpen it up, get the decisions clear first, we know who is right, who is wrong, whip them out of there.

Mr. Binning: As I mentioned to you, when the injunctions were before the court--we can still argue before the court but it is not the appropriate way to go--we used to get them ex parte, which was probably wrong, but we used to get them ex parte the day the illegal strike started.

Mr. Mancini: What does that term mean?

Mr. Binning: Without the other party being notified.

Mr. Mancini: You will have to understand, some of us are not lawyers.

11:10 a.m.

Mr. Binning: I am sorry. I do not know what it means either.

But what you say is, in most cases, negotiations have already taken place. There has been a problem and you have run out of negotiations then, all of a sudden, you are hit with this wildcat and you have pickets out in front of the place. So there is no cooling-off period.

That is why, as I said before, we used to get them ex parte, without notice to the other, which I think was wrong because there might be a case where it is a legal strike, or there was provocation that was so serious that the court would say it was a discretionary power and they were not going to grant it. But if the party asked for immediate action I think the party has a right to get it where it is a clearly illegal act, whether it be trade union or whether it be company.

Mr. Chairman: I appreciate the point you are trying to make. I can also think of a number of examples, some very recent in my own area, where if this process had been available, for example, on the first day of whatever happened at Houdaille, the whole set of circumstances would have been far different from what it was.

I am not sure that what you are proposing, to be truthful, is always desirable. Perhaps in most cases it might be, but I certainly would think in that instance this whole other world which came into play after a while and resolved the situation, was maybe the better of the two options that were available to us.

Mr. Binning: Should you not leave that to the wisdom of the parties though? We are dealing with it on a daily basis. We do not want confrontation with the police on a picket line where people are going to get hurt. We do not want that either. But, surely, we should have the right to immediate, effective action where there has been a clear violation of the act.

The whole purpose of this act, other than certification, is so there should be no strikes and no lockouts during certain periods of time. Surely, we should have the right to immediate effective action if that clear principle has been violated.

Mr. Chairman: Yes, that is a good academic argument. I understand and appreciate why you, in particular, would want to make that argument. I am trying to balance out in my own mind whether that would always be true. I am not sure that it would be always true.

For example, I can think of a situation where we had a lockout. I am not sure you would want somebody from the labour relations board, on the first day of that lockout when the people outside were mad as hell, to come down with the decision at 11

o'clock that this lockout was not legal and that company must open up its gates because the company, in that instance, had head offices south of the border, as they often do. It is very difficult for those guys to decide whether they are going to turn the lights on or off in less than 48 hours. So what would you do?

Here you have a bunch of workers outside a plant. You would have a clear decision on the part of the Ontario Labour Relations Board that the lockout was illegal. What would they do? Bust down the doors, go inside and turn on the machines? Management would be sitting there and say: "What the hell is this? We have to check with Rhode Island to see whether we are going to start up production or not." These guys are all in a plant with no management. That would not be too desirable.

On the other side of the coin, if you had an illegal strike which occurred somewhere and the people were mad enough to take on an illegal strike and then you formalized it and said, "Yes, this is illegal," how do you herd those folks back inside and say, "We are going to make cars this afternoon, friends"?

Mr. Binning: That is a decision, on the one hand, the union has to make and, on the other hand, the employer has to make. If it is a lockout the union is going to have to assess that themselves because they also do not want the people that they represent to go in that shop and destroy the place.

Mr. Chairman: That is right.

Mr. Binning: When we are in the labour field we realize that we have to be careful. What I am saying to you is surely you have that choice, or you should have that choice.

Mr. Chairman: Are there any further questions? Thank you, gentlemen, for appearing before us this morning. If we have any further questions or there is anything that you want to put to us feel free to do so before we turn in this report.

We have one witness who wanted to be fitted in this morning. He is Mr. Werry who represents the Ontario Road Builders Association and, I believe, one other association.

Mr. Werry: I am Mr. Werry. It is the Ontario Road Builders Association and the Ontario Sewer and Watermain Contractors' Association and we have a number of people here from both of those associations.

Mr. Chairman: Do they want to testify?

Mr. Werry: There will be nobody testifying.

Mr. Chairman: Okay. You have already been sworn in so maybe you could just proceed.

Mr. Werry: I have not been sworn in.

R. Werry, sworn.

Mr. Werry: On my left is Mr. Clarence Delion of the Ontario Sewer and Watermain Contractors Association. On my immediate right is Mr. Martin Macdonald of the Ontario Road Builders Association. On his right is Mr. Paul Wilson of the Ontario Road Builders Association.

What we simply want to do, and what I promised the clerk we would do this morning, is adopt in toto the observations, comments and recommendations of Mr. Binning who spoke on behalf of the Labour Relations Bureau of the Ontario General Contractors Association.

Mr. Chairman: So you simply want to go on record as being in agreement with the positions which they put.

Mr. Werry: With everything he said.

Mr. Chairman: Do you have any questions?

Mr. Werry: No.

Mr. Chairman: That is fine. Thank you very much.

Mr. M. Davidson: That was a short appearance.

Mr. Chairman: You want quick decisions by a board. The next group before us this morning is a representation from the Ontario Chamber of Commerce. I understand Mr. Riggs is the counsel and we will introduce him. It is my understanding that Mr. Simpson and Mr. Griffin may appear.

Mr. Riggs: I do not think they expected the last submission to be so short.

Mr. Chairman: Mr. Riggs, I take it you are going to make the presentation.

Mr. Riggs: Yes, Mr. Chairman, I shall.

Mr. Chairman: Okay. Perhaps we can swear you in and then we will proceed.

C. Riggs, sworn.

Mr. Chairman: I take it you are going to read the presentation.

Mr. Riggs: I was not even planning to read it, really. I thought what I would do is just highlight it and then answer questions arising out of it.

Mr. Chairman: Are these the two gentlemen? Maybe I could proceed and swear them in. Mr. Simpson.

Mr. Riggs: Mr. Simpson is on my left. Mrs. Elaine Roscow, who is the director of research for the Ontario Chamber of Commerce, will be on my immediate right.

Mr. Chairman: Okay, then why do you not just proceed through the presentation and then we will swear these other people in.

Mr. Riggs: Mr. Chairman, members of the committee, you have before you the written submission from the chamber. We appreciate the opportunity of appearing before you.

The submissions we are making centre largely on procedural matters of concern to us in so far as the Ontario Labour Relations Board procedures rather than the substance of the board's decision-making. A number of our concerns relate to applications for certification and unfair labour practice complaints and some of the procedural problems involved there.

The first one is in terms of the notice provisions for employers. When an application for certification is sent, there is a terminal date provided in the application partly because of the problems with the mails and because of the particularly short periods of time that are provided in terminal dates.

The experience now of many employers is that they have sometimes two or three days from receipt of the application for certification to the terminal date when the material has to be back to the board. That, in practice, is just not a sufficient amount of time. What we are saying is the regulation would have to be amended to provide at least a week.

That is probably more of an acute problem to employees rather than the employer, because where you have employees who would have had no previous dealings with the Ontario Labour Relations Board, to be given that kind of short time period is just not sufficient.

11:20 a.m.

The second notice problem we have relates to unfair labour practice complaints. It used to be the board's policy to send out by mail unfair labour practice complaints and then, after the employer had received the complaint, the labour relations officer would subsequently contact the employer in some kind of attempt to reach a settlement. Now, what the board has done recently is to have the labour relations officer actually take the complaint out to the employer, the employer having had no prior notice, and then right at that time attempt to affect a settlement.

The board, I understand, justifies it on the basis that they are more likely to get a settlement that way. The difficulty with it is, firstly, the employer has no opportunity to consider the facts in the application. It may well be the person to whom the application comes is not the one who makes the decision anyway. Probably the worst difficulty with it is it is an unfair system because it does not give the employer some kind of opportunity to consider the complaint.

The third problem relating to unfair labour practices is our concern with the reverse onus clause. The reverse onus clause came in the 1975 amendments to the act. What it does is to provide an

obligation on the employer effectively to establish his innocence in an unfair labour practice complaint.

That is a proposition that in our legal system generally has been resisted for years. We see no reason why that has to be treated any differently under the Labour Relations Act than it is under the common law.

We have a number of concerns, Mr. Chairman, about the position of the individual employee under the legislation. One of the difficulties in terms of this act and the way it is administered is that it works very well in terms of having provisions contained in it for the benefit of institutions, the employer and the trade union, but there is very little provision made in the act, or in the board procedures and practices for the position of the individual employee.

One of the times when that becomes an acute problem is in terms of notice employees have in an application for certification. I would think that any employee who receives one of those form fives, notice of application, which is pinned up on the board and which tends to be written in legalese, would have considerable difficulty in understanding what it means, what his rights and obligations are with an application, and if he wants to contact somebody or do something what he has to do about it.

What we would suggest is that application, that form, has to be rewritten in some kind of language, layman's language, that an individual employee who is not familiar with board procedures and practices can understand because, in terms of knowing what he or she can or cannot do when he sees this form, at the moment it just does not work.

I quote, for instance, from paragraph 10 of that application. Bear in mind it is a layman who is reading this for the first time. It says:

"The purpose of the hearing is to hear the evidence and representations of the parties with respect to all matters arising out of and incidental to the application referred to in paragraph one."

I would defy most employees to read that without any experience in board procedures to know, to be able to say to their fellow employees what is going to happen when we get to the board hearing. Nobody will know from that.

We think that one way you will help solve the problem of the position of the individual employee who is affected in the labour relations context is to set up what we have referred to as an employee adviser system. Because one of the difficulties the individual employee has is some mechanism to get objective nonpartisan advice, because the employer is in the position that if he provides advice that may be construed to be an unfair labour practice. The employee may be able to get advice from the trade union; the employee may not have views which are consonant with the views of the trade union. What we say is you should set up, in the Ministry of Labour, an employee advisory service.

On page six of the brief we have set out the features we think should be included in the service.

First, "The advisory service should be established by the Ministry of Labour with employees of the ministry but independent of the labour relations board." Second, "Members of the advisory service should be familiar with the procedures and practices of the labour relations board and also with other labour legislation administered by the ministry."

I may interject there. We see this service as being one available, not only for employees who are dealing with the Ontario Labour Relations Board, but have contacts with other government legislation. The Employment Standards Act would be an obvious example.

Thirdly, "The service should be free of charge;" and, fourth, "The advisory service is not established to provide legal advice but to provide assistance to employees who are affected by the Labour Relations Act and where appropriate to direct the employees to legal advice, to particular people on the labour relations board, or to other agencies, or to available written material."

It may be people in the ministry; it may be written material; it may be legal advice; and also that where people apply for, take advantage of this advisory service, the discussions are confidential. In other words, this service is not merely passing on the conversations, either to the employer, to the union or to the labour relations board.

Now we think as well that the existence of this service should be specifically noted in applications for certification. So employees know here is a number you can call; here is the service you can get, nonbiased, government-run information from this service.

I think that would make the position of the board easier; it would make the position of unions easier; it would make the position of employees easier; and perhaps most important it would provide a specific benefit to the individual employee.

One other problem that confronts employees with applications for certification is the fact that in many cases of employees who are affected by the application, their first language is not English, and we would think it would be an extremely simple matter for the Ontario Labour Relations Board to take the principal forms that it uses, have them translated into the languages which will come to the attention of most employees, and if either the employees ask for it or the union or the employer, then have these notices posted in the language of the work place.

That is not a novel idea. There is already provision for that in the Occupational Health and Safety Act, for notices to be posted in the language of the work place. This is not something that would have to be done with every application. The forms could be ready there to be sent out so you did not have to run into the problem of whether employees knew what was being involved.

Finally, Mr. Chairman, members of the committee, related to those submissions to the individual employee we would suggest that a lot of these problems, particularly the problems which relate to the difficulty of the petition, would be solved if we would adopt the system in this province--and this would require legislative amendment--that where the union had established a minimum number of cards signed up, there would be a vote held in every case to establish finally whether or not the employees, in fact, wanted or did not want the union to represent them in collective bargaining.

This would be a government-supervised, off-premises vote. It would solve entirely the problem of petition. It would make the petition irrelevant and it would solve the problem from the trade union point of view, in the sense that the trade union has concerns about the independence of the petitioning employees, and you would solve the problems of the employer with its concerns as to whether membership cards, in fact, represented a sufficient test of employee wishes.

Mr. Chairman, those are the submissions that are contained in the brief.

Mr. M. Davidson: I would like you to explain a little further your views with regard to the petition in opposition to a certification proceeding, and your reasoning as to why a secret ballot vote would be held off-premises.

Mr. Riggs: The reason for that, Mr. Davidson, is that in some cases it is suggested--and I think it is probably suggested by trade unions--that if you have a vote in the employer's premises, then there is potentially some possibility of interference and, therefore, to establish and emphasize the independence of the vote, that you have it both supervised by the labour relations board and held in neutral territory. I mean a local hotel or a place that everyone knows about, the legion hall. I think those are the traditional places where those kinds of things are done.

Mr. M. Davidson: The purpose, of course, of holding it on-premises is to allow every employee the opportunity to be present and vote. It is a well-supervised provision and, of course, the only time, in my understanding, that unions object to this taking place is when they don't like where the polling booth is located.

My understanding is that if a vote is to be held, both the company and the union have the right to view the premises and determine where that polling station is located. Once that has been agreed upon, I see no reason at all why the vote cannot be held within the premises of the company.

Mr. Riggs: If both parties are happy to have it on the employer's premises, fair and well, I have no problem with that.

Mr. M. Davidson: What about a situation, for example, in a city like this where some people have to travel countless numbers of miles to get to their work place? Would it not be much more convenient for those persons to have an on-premises vote than to

have to go to some obscure location to cast a ballot?

Mr. Riggs: I hope if it were held, it would not be in an obscure location and would be one all the employees know about. The suggestion that it be off-premises was nothing more than to emphasize the independence of the vote from interference by either party. If both the trade union and the employer are happy to have the vote on-premises, there would not be any objection from our point of view.

Mr. M. Davidson: You talk about a minimum level of support. I take it that means the number of cards that have been signed by the trade union?

Mr. Riggs: Yes, sir.

Mr. M. Davidson: What do you consider a minimum level of support?

Mr. Riggs: We would consider 35 per cent would be the minimum level.

Mr. M. Davidson: Does that not take place now? Are you suggesting that applications with 35 per cent of the cards are granted certification without a hearing?

Mr. Riggs: No. In fact, as you well know, that is not what the act provides for. The whole rationale of our proposal is that if you do provide a vote in every case where there is the minimum percentage, you are going to provide the best possible way of getting an accurate reflection of what employee wishes are.

Mr. M. Davidson: Can you give me examples of where a vote is not held when there is a 35 per cent turn-in of cards?

Mr. Riggs: I'm sorry; an example of when it is not?

Mr. M. Davidson: Yes, an example where certification has been granted with 35 per cent signed up?

Mr. Riggs: I am putting this forward as a proposal, not what the existing law says. One of the big advantages of having the vote, apart from our point of view of having some kind of finality in establishing employee wishes, is that you completely get around the festering problem of the petition. That is a problem that undoubtedly has caused concern to employers, trade unions and to the labour relations board. If you have a vote, you get around that problem because the petition would no longer have any value.

Mr. M. Davidson: So you are suggesting a vote should be held in every application?

Mr. Riggs: Where there is a minimum percentage of cards.

Mr. M. Davidson: But is that not the case at the moment?

Mr. Riggs: No, it is not, because if the union gets more

than 55 per cent, it is an automatic certification based on the cards, not on the vote.

Mr. M. Davidson: That is what I am saying. You are suggesting that a vote be held in every application made before the board.

Mr. Riggs: In every application where the union has a minimum support, yes. In other words, you have to get 35 per cent on the basis of cards. Then assuming that is done, there would automatically be a vote held in every case.

Mr. M. Davidson: No matter what number of cards the union turned in?

Mr. Riggs: Exactly. That would be the distinction.

Mr. M. Davidson: So you are setting the minimum at 35 per cent, but if I signed up 95 per cent of the employees, you would expect a vote to be held?

Mr. Riggs: Yes, that's right. I would also expect the vote to be held even if after 95 per cent of the cards are signed up, all those employees file a petition indicating they no longer wanted to be represented. I would say we would ignore the petition and then go straight to the vote.

Mr. M. Davidson: That is not an unusual position. That position has been advocated by employers' organizations for many years.

Mr. Riggs: It has indeed. In fact we have already made a large number of proposals, particularly the substantive ones in this brief, to the Minister of Labour.

Mr. M. Davidson: You are suggesting then that the act as it now is written in terms of certification procedures is not satisfactory?

Mr. Riggs: Correct.

Mr. M. Davidson: I would like to go back to your employee adviser. Can you give us an example of what this employee adviser would advise people of, other than what you have got in here? I think each one of us in this room considers himself a constituency adviser in the sense that if people have difficulty in understanding the laws of this province, they normally contact us for clarification as to what it is.

If, for example, one of my constituents walked into a plant one morning and found this very strange piece of paper tacked to the wall suggesting certain things were about to take place in his company, and for some strange reason he was not quite aware as to what this was, even with all the activity that normally takes place during an organizing campaign from both sides, I am sure I would get a call saying: "This thing is here. Can you explain this to me?"

You are suggesting that the labour board hire an advisory service--

Mr. Riggs: No, not the labour board.

Mr. M. Davidson: The Ministry of Labour, excuse me. You are suggesting the Ministry of Labour establish an advisory service to advise employees of their rights once a notice is posted.

Mr. Riggs: No, I would not restrict you to that, Mr. Davidson.

Let me put it this way. I see the service as performing a number of functions. I do not see it just as providing advice to employees, once they have seen an application for certification posted. That undoubtedly would be one of the primary values for it. That would not be to exclude calls to members of the Legislature. That undoubtedly would continue, and quite properly so, because of matters of expertise and workload. I do not think that is a sufficient outlet for employees to be provided advice.

The second value it has is it solves the problem of the employee looking for advice from those who have a particular defined interest in the application--the employer and the trade union. But the other point is, I would not envisage this service as being one that is just restricted to applications for certification.

You can have employees, for instance, who may have problems concerning human rights, difficulties in terms of the administration of the Employment Standards Act. There may be other things in the Ministry of Labour. There may be problems of occupational health. You would assume, and I might assume too that when you are familiar with the way the Ministry of Labour operates, you are going to know which branch to get in touch with and how to get a problem solved.

I do not think that is a fair assumption to make for an employee who is not familiar with dealing with the (inaudible).

Mr. M. Davidson: Do you not think that the Ministry of Labour already provides this form of service? I know in my own region there is a branch of the Ministry of Labour. If people are having labour difficulties of any kind they can simply pick up the telephone and call the Kitchener office, explain the situation, and someone there will advise them as to what action they can or cannot take, or whether there is any action open to them.

Mr. Riggs: That is not my understanding at all. One thing, if it were available, then I would be happy to see the existence of that service provided in the form five. But I do not think you could expect the regional offices of the Ministry of Labour across the province are going to have expertise to deal with the Ontario Labour Relations Board and other government agencies within the ministry every time an employee has a concern.

This is not a novel idea. My thinking is the Workmen's Compensation Board has workmen's advisers too who are available

for people who have concerns with the board in dealing with it to get in touch with them and get advice from them as to what to do.

Mr. M. Davidson: Yes, but they act on behalf of the injured worker before appeals and various others. Are you suggesting this adviser would act on behalf of any (inaudible) before the board?

Mr. Riggs: No. I am just suggesting it in terms of providing advice. To that extent it is parallel. The employee has a problem. He calls the service and says: "I am involved in this circumstance with the Ministry of Labour. What can I do? What can I not do? Who can I go to? How can I get the problem solved?"

Mr. M. Davidson: I am suggesting that information is already available. I do not know if it is--

Mr. Ruston: (Inaudible) in our area. The employment standards people look after a major part of that now. I am sure you feel there should be more, and probably there should, but they do cover a fair amount of that now, I find.

Mr. Riggs: The difficulty as we see it is that although the legislation refers, for instance, to the members of the Labour Relations Board as being employer representatives and employee representatives, in practice for years these representatives have been employer representatives and trade union representatives. Other than the provisions in section 60, the position of the individual employee, as opposed to the two institutions, is given very little provision.

11:40 a.m.

If Mr. Davidson is right that there are all these services available--I do not agree with that, but even if there were--then the existence of the service should be specifically set out at least in the application for certification, the form five, so employees know there is somewhere they can go to get advice.

Mr. M. Davidson: You have mentioned the terminal date for applications and the fact that employers are having difficulty perhaps meeting the time requirements under the act. To what extent is that a problem?

Mr. Riggs: That is going to vary from case to case. You may have an extremely straightforward application the employer can deal with and respond to in a very short period of time. You may get a far more complex application where the decision by the employer as to how the position he takes, for instance on the proposed bargaining unit, can fit into his other operations--that is going to be a fairly significant decision.

I do not think it was originally the labour board's intention that this period of time be compacted. I think it is one that has come about largely because of the problems with the mail, because these applications are normally sent out by mail. If you do get two or three days, particularly in a large organization where there are a number of people who will have to be involved before a decision is made.

Mr. M. Davidson: Can you cite any cases where an extension has not been granted upon the request of an employer?

Mr. Rigg: Yes. As a matter of fact I had one in the last few months involving Hostess Foods in Cambridge where it was effectively three days, as I recall, from the time it was actually posted until the terminal date, and there was a request made for an extension--I made it myself--and that was denied.

Mr. M. Davidson: That may be as a result of past practice of the company in dealing with certification procedures.

Mr. Riggs: I think the past practice was the board's, not the company's.

Mr. M. Davidson: But normally, at least to my knowledge, it has been the practice of the board to grant an extension if a company requests it, based on the fact that the material required was not readily available.

Mr. Riggs: That is not our understanding, Mr. Davidson. Let me put it this way. It seems to me the labour relations board has no legitimate interest in having the employer have three days in which to make a reply. I am not suggesting it be a month so the thing can drag out. All I am suggesting is that there should be at least a clear week from the time you get the information to the terminal date.

Mr. M. Davidson: That is all for the moment.

Mr. Chairman: Are there any further questions? We thank you for appearing before us this morning. If you have anything else you would care to add to it, feel free to get a hold of John or Graham.

Mr. Riggs: Thank you very much.

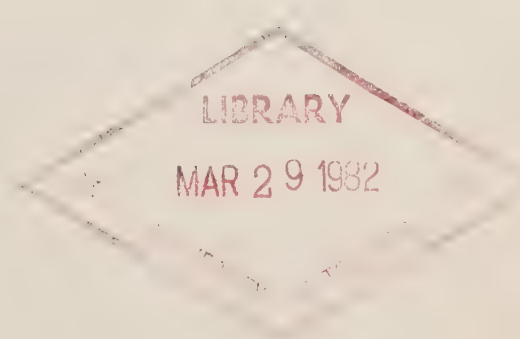
Mr. Chairman: The committee stands adjourned until two this afternoon.

The committee recessed at 11:43 a.m.

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STANDING COMMITTEE ON PROCEDURAL AFFAIRS
REVIEW OF ONTARIO LABOUR RELATIONS BOARD
WEDNESDAY, SEPTEMBER 24, 1980
Afternoon sitting



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Shorten, Dr. S.J., President

From the Canadian Manufacturers' Association, Ontario
Division:
Doyle, P., Manager, Industrial Relations and Social
Affairs
Keen, D., Manager

LEGISLATURE OF ONTARIO

STANDING COMMITTEE ON PROCEDURAL AFFAIRS

WEDNESDAY, SEPTEMBER 24, 1980

The committee resumed at 2:13 p.m in committee room No. 2

REVIEW OF ONTARIO LABOUR RELATIONS BOARD
(continued)

Mr. Chairman: The committee will begin. Our first presentation is from the Canadian Manufacturers' Association, Mr. Keen, Mr. Doyle and Mr. Towill.

You were not here this morning so I will explain the procedure. We have decided to opt for a process which really does not have very much to do with you but has to do with a procedural matter about witnesses appearing before committees, so for this session all witnesses who appear before the committee to give testimony will be asked to do so under oath. I am going to ask the clerk to swear in the three people who are going to be speaking during this presentation.

D. Keen, sworn.

P. Doyle, sworn.

W.W. Towill, sworn.

Mr. Chairman: You have a presentation and we have a brief from you. Do you want to just proceed with your presentation and there will be questions afterwards?

Mr. Keen: Mr. Chairman and gentlemen, we realize you have had the typed version; we also recognize that if we were to read through that it would probably be too long, but we thought that some of the background information might be useful. What we would like to do, if it is agreeable to you, is Mr. Doyle will give you a summary of that.

Mr. Chairman: Okay, that is fine.

Mr. Keen: When you get to your question arrangements, Mr. Doyle and Mr. Towill, the chairman of our labour relations committee, will be happy to answer questions, if that is agreeable to you.

Mr. Doyle: The Canadian Manufacturers' Association endorses the collective bargaining process as the method of determining terms and conditions of work and settling disagreements between employers and their unionized employees. It is because of our belief in the system and our wish that it operate well that we sometimes find it necessary to look at it very closely, to criticize it and to make recommendations for its improvement. It is in that role that we are here today.

For the process to operate properly, the interests of individual employees, unions and employers must be balanced so that none of the interested parties may unilaterally impose its will on the other. It is important that the rights of individual employees are protected against the excessive use of power by employers or unions.

Not only must legislation preserve the rights of all affected parties, it is critical that quasi-judicial boards, such as the Ontario Labour Relations Board, conduct their procedures in a equitable manner in order to preserve due process for all involved persons and parties. We have some concerns that the preamble to the act is sometimes used by the board to justify procedures which do not always appear to be applied equitably to individuals and parties before it.

The preamble states: "Whereas it is in the public interest f the province of Ontario to further harmonious relations between employers and employees by encouraging the practice and procedure of collective bargaining between employers and trade unions"--and these words are very important--"as the freely designated representatives of employees..."

We believe that the preamble is sometimes misused and misinterpreted by both union and the board. Surely the intention of the preamble is to encourage collective bargaining where this is truly desired by a majority of the employees.

The preamble does not say that collective bargaining is a goal in itself, a goal to be implemented by the board. Such an interpretation does not take into account the last sentence of the preamble. Opposition to a trade union by employees cannot and should not be disparaged as being against the intent and spirit of the act; nor should it be the purpose of the act to impose a collective bargaining relationship where the majority of employees do not want it. We feel the board often forgets this.

We then move on to discuss certification procedures. I suspect that you have become acquainted with these. The board must hold a vote to certify a union to represent employees where the union has from 45 per cent to 55 per cent support and it may or may not hold a vote to certify the union where the union has more than 55 per cent support.

The CMA believes that a union should be certified to represent a group of employees only if obtains majority support of the employees through a secret ballot supervised by the board. This procedure would protect the individual employee's right to express his or her choice regarding union representation without fear of intimidation by either the employer or the union.

The possibility of the board certifying a union without a vote results in frequent charges, countercharges and challenges before the board on the membership evidence. In some cases, employees who have signed union membership cards submit a petition seeking to have their cards withdrawn. Few petitions are accepted because of the technical requirements that the board requires

employees to meet. We will have more to say about that a little later in the brief.

We feel that the objective of certification procedures should be to establish beyond a doubt that the union has majority support and to put the parties into a workable collective bargaining relationship.

Therefore we were most distressed with the remarks made by the board chairman in recent speech where he commented: "We see a firm choice being made between certifications based on union membership cards or representation votes with a trend being in favour of membership documentation. This trend assumes that the representation vote approach is unnecessarily divisive, exceedingly difficult to regulate and unlikely to encourage the practice of free collective bargaining."

We could not disagree more with the chairman's view, and would offer in support of our position the certification procedure in Nova Scotia where the outcome of a union's application is always determined by a secret ballot, not by membership count.

2:20 p.m.

In the three years since Nova Scotia instituted its procedure for an expeditious secret ballot, held within five working days of the union's application, there have been no strikes during the negotiation of first collective agreements. Contrast this situation with Ontario's where there have been several lengthy and well-publicized strikes during negotiations for a first contract. To our knowledge, no representation votes were held in these cases.

Mr. Sterling: How many members do they have to have in Nova Scotia before they get a vote?

Mr. Doyle: They have to have 40 per cent support to get a vote.

The chairman's view, coupled with the board's reluctance to order representation votes, implies that employees do not have the intelligence to interpret and evaluate the information provided by the union and the employer, particularly the employer, and reach a rational decision as to whether or not they wish union representation. The association has a higher opinion of the individual's ability to evaluate information and reach rational decisions. Our view is supported by a study of the National Labour Relations Board in the United States, where certification is decided by secret ballot.

We have a number of quotations from chapter seven of that book, and I would just like to draw your attention to parts of these, I don't want to read them all. Towards the middle of page six, I would like to highlight the words: "There is no evidence that union supporters who do switch are coerced. Rather, their dissatisfaction with working conditions apparently lessens, indicating that a vote for the union is no longer reasonable."

The authors then go on on page 150: "The board should no longer set aside elections or find unfair labour practices based on written or oral campaign communications by employers or unions. Speech in union representation elections should be as free of governmental restraint as speech in political elections."

And towards the bottom of the page, "Both the employee voter and the political voter appear less interested in the campaign than traditional theory would have it, but that, if anything, suggests less need for government regulation of speech, not more."

On page 159, the authors state, and going to the second paragraph in that quotation: "There are not likely to be many cases in which the number of votes affected by employer campaigning will be sufficient to deprive the union of the victory it would have gained under existing law. The data show clearly that union supporters perceive both reprisals and benefits whether the employer campaigns lawfully or unlawfully. They do not, however, vote against the union as a result of these perceptions."

"The failure of threats and promises to affect votes does not appear due to the union supporters' failure to perceive them, but to their ability to absorb these threats and promises into their cognitive systems without changing their behaviour."

We feel that the experience in Nova Scotia and the NLRB experience refute the chairman's view on the value of certification votes.

Government officials appear to believe that certification votes would delay the process. We feel that certification votes would reduce the number and length of hearings. Where there was no dispute as to the description of the bargaining unit, or exclusions, there would be no need for a board hearing. In no event would there be need for the board to investigate petitions because they would cease to be part of the certification procedure.

We looked at some statistics for the board for 1979-80. There were 792 applications for certification granted. In 742 of those cases the bargaining unit consisted of 100 employees or less, and only four cases involved 500 or more employees. Because the greatest number of certifications take place in the smallest companies, we conclude that certification votes on every application would not be time consuming because of the small number of employees involved in each vote.

To conclude our presentation on this section, we note that the board has discretion under section 7(2) of the act to direct a representation vote where the union has more than 55 per cent of the employees as members. We strongly recommend that the board use this discretion to order a certification vote to decide the outcome of every application for bargaining rights and cease its practice of certifying on the basis of membership count.

We next go on to talk about petitions or statements of desire. There would be no need for employee petitions if secret ballots were held, but because the board is reluctant to use the

secret ballot route, we have a number of comments to make on the subject of petitions.

Because a union organizing drive may represent the first experience with these matters for many of the employees involved, one would not expect them to be familiar with all the board's procedures and forms. It is not surprising, therefore, that few petitions are accepted by the board because the employees fail to meet the rigid technical requirements. These matters were detailed in a dissent on a case. I don't want to go all through that, but I will just draw your attention to a few points.

The general terms of the tests that must be meticulously followed are set out. For example the person circulating the petition cannot discuss it with the employer, cannot obtain signatures on company property, cannot obtain signatures within sight of a member of management, every signature must be witnessed and such witness must testify before the board, the person circulating the petition must not get time off from work in order to mail the petition, he must not arrange for time off with pay to attend the board hearing.

In conclusion, the employer panel member noted that the board should be at least as concerned for the interests of the individual appearing before it as for employers and trade unions. He believes that to deny the vote is to deny equity and natural justice.

More recently, the Ontario High Court of Justice (Divisional Court) heard an appeal from objecting employees whose petition had been rejected by the board following the board's refusal to permit oral evidence relating to the petition. This case is referred to as Fuller's Restaurant, and the court held that section 91(12) of the Labour Relations Act, which requires the board to give a "full opportunity to the parties in any proceeding to present their evidence and make their submissions" overrides the power of the board to "determine its own practice and procedure."

We then go on to set out the headnote of the case, and at the bottom of that quotation I would like to draw your attention to the following:

"At the certification hearing, the rules of procedure were interpreted as not permitting the introduction of oral evidence to identify and substantiate the evidence of the petition filed. As a result, the objection was rejected and the request of the objector's counsel to call evidence to support or explain or clarify the objection was denied."

The court ruled that the board had failed to give the objectors a fair hearing, and in so doing, had denied the rules of natural justice. The board's interpretation was found to be patently unreasonable and its award was quashed.

The court concluded, and we then go on to quote again from the case. Part way through that:

"The board might devise and furnish a form of objection to

accompany form five in terms that lay people would understand. Any serious deviation from such a form might justify a reaction in the board of the type seen here, with less risk of unfairness, for the objectors would know beforehand what form was acceptable.

"The board has more than 80 forms set out in its rules. To suggest that the board might produce one more might not be thought unreasonable."

To our knowledge, the board has not yet revised form five or developed a new form. We understand that it has somewhat relaxed the rigorous rules which previously it had applied to petitioners. However, we believe that either a revised form five or a new form should be developed, as the present form is written in very technical language, and we have attached a copy of that to the brief.

We believe the form should be simplified and explained in nontechnical layman's language. We have also attached a section from A Guide to the Ontario Labour Relations Act, which describes in layman's terms the rules which petitioners must meet. It is not fully satisfactory, but it is better than what petitioners are provided with right now when they must complete this form five and get it in in a very short time.

Mr. Sterling: Have either yourself or legal counsel suggested a form that could replace form five? I often hear people say, "We would love to have law written in less legalese," and I think everybody would like that, but when you get down to trying to do it it is a little more difficult.

Mr. Doyle: I have seen one example developed by legal counsel, who is not appearing before you today. I could seek his permission to provide that to you, but I did not want to bring it forth because it was developed privately by a legal counsel.

Mr. Sterling: I would appreciate seeing that.

2:30 p.m.

Mr. Doyle: We next go on to page 14 to discuss terminal dates. Form five contains a terminal date, which is the last date on which a statement of desire or petition from objecting employees must be received by the board for it to be accepted. Until recently, the terminal date was set from five to seven days after the date when the forms are mailed to the employer.

We understand that the terminal date is now being set at eight or nine days following the date of mailing, but given the slowness with which much of the mail is processed, we question whether that is enough time and we suggest that the time should be 10 working days or 14 calendar days.

On page 15, I would like to go on to a different subject identified as point two, posting of board orders. During the past several months, the board has ordered certain employers to post a "notice to employees" indicating that the board has found the

company in violation of the act. The board provides the wording of the notice as part of its award.

The notice to employees puts statements in the mouths of the defendant or respondent, as the notice is stated in the first person and indicates the activities which a company will or will not do.

The first case, to our knowledge, where the board required such a posting was the Radio Shack case, and the board felt that the special circumstances of the case warranted this remedy. However, in a recent decision involving Valdi Incorporated the board extended the circumstances which would justify an order to post such a notice.

I have quoted some parts from the award, which I won't read at this point, but I would like to draw your attention to the quotations at the bottom of page 16 from the partial dissent of the employer panel member.

"The majority decision sets forth what amounts to a universal policy concerning the posting of notices. I cannot agree that in every case a notice should be posted.

"In order for a remedy not to be punitive, it should arise and be granted out of and as a result of evidence before the board which clearly demonstrates the need for the remedy. There is no evidence of such need in this case, and with such a small group of employees, the information grapevine is very short."

We do not like the idea of posting at all, but if it is to occur, it should be confined to exceptional cases, and not every case in which the board decides that the employer has violated the act. Moreover, we object to the board ordering the employers to state in the first person what they will and will not do.

In criminal and civil proceedings, the defendant, even if found guilty, is not required to make a public confession. This is really what the board is requiring employers to do. It is one thing to require a board order to be posted, but it is quite another to force the employer to publicly admit in the first person that he has violated the act.

The association recommends that the posting of a notice to employees be confined to exceptional circumstances, and that the wording of the notice be cast in terms of the third person order of the board, and not put first person statements into the mouth of the employer.

Page 18; the third topic is taint versus preponderant motive. We object to the manner in which the board uses its discretionary authority in dealing with complaints under section 79 of the act. Usually the board orders reinstatement of the discharged employee with full back pay when it finds the slightest hint of anti-union animus by the employer. There may be various reasons for the discharge, including misconduct and some small degree of anti-union animus. However, the board assumes that the

discharge was a result of anti-union animus and not for other valid reasons.

We recommend that the board consider the employer's "preponderant motive" in determining whether an employee's complaint is justified, and where anti-union animus was not the preponderant motive, the board should dismiss the complaint.

Page 19; role of labour relations officers. We are concerned with the procedures followed by the officers in trying to settle complaints, as well as with the board's administrative procedures.

When a union or an individual complains that an employer has contravened the act, the board sends the material relating to the complaint to the union by mail and advises the union of the hearing date. The employer does not learn of the complaint until several days later, when he is visited by a labour relations officer who attempts to settle the complaint on the spot.

In some cases, we understand, the employer is told that he cannot possibly win the case before the board. Moreover, because the complaint is scheduled for hearing within 30 days after its filing and the employer does not become aware of the complaint until a significant part of that 30-day period has elapsed, the employer may not have sufficient time to prepare his position if he wishes to proceed to the scheduled hearing in order to have the board rule on the complaint.

There have even been cases where a union has publicly announced the hearing date scheduled by the board for a complaint, prior to any knowledge on the employer's part that a complaint has been filed.

The board's rationale for its practice is that serving the complaint on the employer personally achieves better results. Direct confrontation of the employer by the labour relations officer with no advance notice may meet the board's objective of obtaining settlements without having to hold a hearing. We would question whether this procedure results in an equitable settlement from the employer's perspective. It appears that the fact of a settlement without having to hold a hearing is more important to the board than a fair resolution of the complaint.

The current procedure deprives an employer of advance notice of the issues, the opportunity to consult counsel regarding his legal rights and the opportunity to investigate and consider the matter before presenting his position to the labour relations officer. In these circumstances it is not surprising that some employers feel they have been subjected to undue and unwarranted pressure to reach a settlement.

We recommend the board's procedures be changed so that material is mailed to the employer and the union at the same time and that labour relations officers be advised they are to approach employers in an impartial manner and not exert undue pressure on the employer by prejudging what the board's decision will be if the matter goes to a hearing.

The final section deals with reverse onus of proof. Section 79(4)(a) of the act reverses the onus of proof in favour of the complainant or applicant when an individual or a union complains that an employer has committed an unfair labour practice. Our concerns with section 79(4)(a) are compounded by the manner in which the board applies this section in adducing evidence.

The board has determined that the respondent must lead evidence first. This means that the complainant is not obliged to call any evidence whatsoever and employers are compelled to answer and specify charges. Not only is this procedure inequitable but it adds to the length of board hearings. Because the employer does not know the case he has to meet he must enter substantial amounts of evidence that subsequently may be shown to be irrelevant to the issue before the board.

We recommend that the board return to its previous policy of having the complainant first establish the facts of the complaint so the employer will know the case that he has to meet and unnecessary delays can be avoided in the board's proceedings.

That concludes our oral presentation and we will be pleased to respond to questions.

Mr. Chairman: The research which our single researcher came up with tried to point out that we wanted to get at people who were used to the proceedings of the labour relations board, and get some sense of whether the proceedings themselves were seen to be fair by both sides, were working, whether the board was doing the job that we as legislators thought it should be doing. We wanted to hear whether there should be procedural changes, whether there should be changes in the act, changes in the nature and powers of the board itself, whether there were things like staff levels which were causing problems.

In your presentation you have sort of homed in on some specific areas and I want to try to follow the general questions that our research staff laid out according to the choices which you have made concomitant on.

You went on at some length about the certification process. I guess in part the problem really has been that the traditions here in this province and in many parts of the world are that a union will go through a plant as a response to somebody who has said, "We would like to have a union."

You then go one-by-one through the membership and have a discussion about what a union is, what you might get from joining a union, and that kind of information progress campaign cum election cum notice--whatever that process might be. Individually, each person who works in that work place gets a chance to have the explanation, to say yes or no and to sign a card. In theory that is the kind of election which is held, and when you get it to a certain percentage you can apply for certification.

You are suggesting, as a procedural change, some alteration of that in the course of suggesting that there will always be a vote. Do you have any indication, for example, that individuals in

a work place would be able to make a more informed rational decision about whether to join or not to join a bargaining unit if you held a big meeting or a secret ballot kind of thing? Have you any indication that it would be a more informed vote on the part of the membership?

Mr. Doyle: I think some of the comments you hear from time to time when one of these cases blows up into the headlines is that some people have signed union membership cards for reasons that may not fit the theory as you have expounded it. They may have been told that they will lose their jobs if they do not sign it, or that they will not get the next pay increase if they do not sign the card, or that, "Everybody else is doing it so you should do it," or, "Please sign it so that we can have a vote."

2:40 p.m.

Under those circumstances the person who is uninitiated with the board's proceedings and does not know the provisions in the act is under a fair bit of pressure, or just through ignorance, to sign a membership a card. Afterwards, when some education is received by the individuals and they realize that they may not get a vote because enough people have signed cards, then they have some second thoughts and perhaps they become more knowledgeable about what the union can and cannot do for them.

Mr. Chairman: You did not outline in here any kind of restrictions on the part of the employer in that regard. Common practice has it that union reps and people who are trying to form a local go out and try to educate those people in and around the work place and the company at the same time does the same kind of process, so inside a plant there will be certain people going around saying, "We think you should join the union, sign this card," and for the reasons you gave, or very upright and moral reasons, people do sign the card.

In the same work place there will be guys from management going around the plant saying, "You should not really join a union, they are all bad people," and nine million other really severe and ugly things. So there is that kind of a campaign.

It strikes me that if you are proposing that we alter the way this is done then you should be proposing at the same time precisely what you have in mind when you talk about a secret ballot or a vote being held. How do people get the information? Is one side supposed to inform and the other side respond? Do both sides give equal access to information? Do you have a big public meeting where the union comes in and says, "This is what we can do for you," and the company comes in and says, "This is what you can get without a union"? How do individuals in the work place then get this explanation, get this education?

Mr. Doyle: I do not know that you can lay down precisely what the union can say and what the employer can say. We believe that both sides should have the right to express their position in a nonintimidating fashion, without undue promises, without undue influence.

Employers are not really allowed--you will tell me that some of them do it--to go around the plant and say, "We do not like unions; we do not want you to join a union." The employer can state facts. The employer perhaps can say, "If you join a union you will probably have to pay union dues." In fact, in Ontario that is a virtual certainty now. As far as saying, "There will be a strike here," or, "We will go out of business if you join a union," that is not allowed. Maybe it happens in some cases but it is not really allowed.

Mr. Chairman: So you are not really proposing what the set of guidelines is, as to how people receive this information?

Mr. Doyle: No, I think that the act does give both sides freedom of speech and I think both sides should have freedom of speech. What we are proposing, though--and we did not go into it in a lot of detail here because we realize that you are dealing with the board's procedures, so our recommendation is that the board use its discretionary authority to order a vote on certain applications.

If we were getting into amendments to the act we would suggest that the percentage that the union must have to apply for a vote be lowered, perhaps as low as 30 per cent, and that the vote be held fairly quickly. Nova Scotia holds it within five days, whether five days or seven days is the right figure, but something very quickly, so that neither side has a great deal of time after the application goes in to bring a lot of pressure on the employees. Let the employees make up their minds and vote in a board-supervised vote.

Mr. Chairman: So you are kind of suggesting then that the process be speeded up?

Mr. Doyle: Be speeded up.

Mr. Chairman: That a lower percentage be the requirement to get certified, and that there is an intervention by government agency in the holding of that vote?

Mr. Doyle: That is right. A vote now would be supervised by a board official and certainly any secret ballot should be supervised by a government authority. Another part of this is that having union members pay \$2 when they sign a card is neither here nor there. I know it is an irritant with the unions and it is something that we do not feel that strongly about. If that particular act of faith in wanting to belong to a union was deleted, the employers would not be too upset about it.

I think the procedure can be streamlined from the union's standpoint to make it easier for them to get a vote in a shorter length of time, so we think the vote is the key thing.

Mr. Chairman: Have you addressed yourself to the rather unusual problem of kind of different perspectives?

If, for example, the guy working next to me says, "I think you ought to do this," and the boss comes along and says, "I think

you ought to do this," you are getting maybe equal amounts of information but from different sources. It is like if my kids say I had better take out the garbage, I listen to that in one way, but if my wife says I had better take out the garbage, I get a whole new perspective on that particular piece of advice.

Mr. Doyle: Unless your kid is six feet six inches.

Mr. Chairman: He is, but I can still handle him.

There really is no solution for that, is there? There are going to be always value judgements and roles that people have played and--

Mr. Doyle: That is right. When you go in to cast a vote in a general election, you have got to make a value judgement based on all the conflicting things that you have heard during the campaign. That is probably even harder to decide than whether you wish to be represented by a union. But it is remarkable to us, in a society that bases decisions on secret ballots, that most governments in this country are so loath to accept that route, and that unions are loath to accept it.

I would think that they would like to have the air cleared as much as we would. They should want to know that when they get certified they really do have the support of the majority of the people. Because then when they go to bargain a contract, they can do it from a greater position of strength than if the employer says: "There was a petition here that the board threw out for some screwy reason. I do not think any of those people really want the union."

Mr. Chairman: I think we will probably get agreement from all sides that the certification process in Ontario has not exactly reached its final point of a high art. Where we have a little trouble is trying to get to the specifics of precisely what you could do that would seem to be fair by all those who are involved in the process.

You went on at some length too about the procedures used, for example, for posting and for accepting valid reasons, and all of that. Once again, that appears to be an area where there is an attempt by the board to compensate. In other words, a recognition that, for example, a company has the advantage of initiative, for one thing, has the advantage in certain kinds of staff.

Much of the material which they generate internally to make economic decisions or management decisions gives them the basis upon which they take certain actions. They fire somebody. They close down a line. They move a plant from one place to the next.

The individual worker in the work place then has only the choice to respond in whatever way he or she can. In part, I suppose, that is the theory behind the posting requirements, and perhaps about the difference between valid reasons and not valid reasons for a plant closure.

Have you addressed yourself to how you could--you have

obviously addressed it from one perspective of the manufacturers' association, saying that the current procedures are a little onerous on your part. But are you suggesting in there that the balance, so that both parties get a fair hearing, is such now that the union is in the same competitive position to put a case, to make an argument as the company is?

Because traditionally we have accepted the idea the company has the advantage of initiative and the advantage of information and staff that the worker in the work place as an individual, or even as a union, does not have.

Mr. Doyle: I am having a little problem with your question. Are you talking about during the certification side of things? Are you talking about after there is a collective bargaining relationship established, an effective agreement?

Mr. Chairman: Yes. After the union has been certified and then we are into posting on a grievance, or something of that nature. There are a lot of procedures that are used by the board which work off the assumption that the company has the advantages, so the company has to provide lead information. The posting goes up, the charge is laid at the labour relations. We are now to the role of the labour relations officers as well.

In part, I think all of that reflects a feeling that the company is the one taking the action of firing the worker, closing down the plant, deciding who will get what. Since they have done something, then the laws of Ontario and the labour relations board attempt then to intervene and to provide a fair hearing, and part of that process provides a little balancing. Are you saying that balancing is--

Mr. Doyle: I think you are talking now about the onus on the company to prove the case.

Mr. Chairman: Right.

Mr. Doyle: Rather than the onus on the person who is making the accusation to prove the case.

Mr. Chairman: Yes.

Mr. Doyle: We try to separate again the act versus the board's procedures because the act does reverse the onus. We have made our representations on that to the minister. We feel that is a wrong type of judicial procedure.

But as far as your committee is concerned, dealing with board procedures, we are dealing with the adducing of evidence, which is what the board has control over. We feel that when the individual perhaps can just say, "The employer has threatened me and I will file a complaint," what sort of evidence is the employer supposed to bring before the board to prove he did not threaten this individual? How far back does he have to go in time to do that? What kind of a parade of supervision must he bring forth to testify about the relationship between that individual and the employer?

2:50 p.m.

Whereas, if the individual at least had to state what his case is, the onus can still be on the employer because that is what the act says right now. At least the employer could focus his evidence on the complaint instead of introducing every conceivable thing that he can think of that would be connected with the case, and then maybe not even hit the right aspect of it. That would save the board a lot of time.

Mr. Chairman: Yes, it would.

Mr. Doyle: It would also be a more equitable way of proceeding.

Mr. Chairman: The point that I am trying to get at is that traditionally we have recognized that if Joe Blow working at General Motors puts in a grievance, the local picks it up and it goes to arbitration or whatever. He then walks into a room where another group of people, the labour relations board, are holding a hearing on this matter. He walks in by himself, perhaps represented by somebody from the union. He runs up against the world's largest corporation with all of their resources.

That does not seem to be a fair shot at the hearing process. It is not quite like criminal law where a person is charged by society at large through its agents. Then one lawyer on that side, and one lawyer on the other side argue the case back and forth. Labour relations stuff is not normally like that. There is an imbalance there.

Mr. Doyle: No, I am not sure that I would agree with that. I would not put the quality of the representation of the employee as done in that fashion. The unions have excellent people, both lawyers whom they can use and their international representatives. I am sure in a big company situation, there is a perfect balance in terms of skills, whoever General Motors has representing it, and whoever the union or the employee has representing it. There is not going to be any lack of quality on either side.

I think with some of the smaller cases though, companies that are fairly small, they do not have a great labour relations resources on their staff. They probably have an outside lawyer who they use from time to time. But most of the unions have access to experienced and skilled people, even if it is a small local of a big union. The UAW will have experts who they can make available. If anything, the employer may have less representation on these sort of cases than the union does.

Mr. Chairman: You are making an argument that in the procedures used by the Ontario Labour Relations Board it is sometimes the employer who is at a loss.

Mr. Doyle: That is right. The procedures we do not see as being applied equitably. If the reason for using those procedures is that the employee does not have good representation through his union, I do not accept that argument.

Mr. Chairman: Okay. Nor the argument that perhaps the individual in the work place out there may simply not have the resources?

Mr. Doyle: The individual, if he has union representation, he--those resources should be behind him.

Mr. Chairman: Frankly it is my practical--

Mr. M. Davidson: It is less than half the working population in the province.

Mr. Chairman: It has always been my experience, maybe it is different from a great many others, whenever I get involved in this, if the union is talking to me about this, I meet with two guys in the union hall some place, or maybe in a restaurant, or sometimes in some other place where food and refreshment is available.

On the other hand, if it is a corporation making an argument to me on this behalf, I usually walk into a room full of eight three-piece suits and 45 briefcases, and if they get into trouble, they have got computers at their resources, and they call in staff who have very good knowledge of the work situation. It would appear to me that there is an imbalance there.

If some of the procedures used by the board seem a little onerous, all they are doing is trying to recognize that they are trying to put more balance into the situation.

Mr. Doyle: I do not recall the board having used that kind of rationale to justify advising a union of something several days before they advise the employer of something.

The employer, just because he has a lot of resources, does not mean that he knows a complaint has been filed. So somebody walks through the door from the labour board and says, "One of your employees, or ex-employees, has complained about an unfair labour practice, and this case is scheduled for next week." Why wouldn't the employer be notified at the same time the union was notified at the same time the union was notified? That is the sort of thing I am talking about of procedures being applied equitably.

Mr. Chairman: In one of the cases which you quoted in here, for example, where the board found that other than economic reasons were the basic reasons for the movement of a plant, which is always a difficult kind of thing to do, in essence what you are saying there is the process was unfair to the employer. He did not get a fair hearing and you disagree with the findings of the board. Aside from that one case, though, would you hold that is generally the rule, that there is a bias against employers?

Mr. Doyle: Here we are talking about the taint versus preponderant motive hearing. I guess it is a fact that the majority of cases which the board deals with are union complaints or employee complaints, some justified and some not justified. That is up to the board to decide.

What we are saying is that because the board is able to detect some small amount of anti-union motive, and that was not the motivating force behind the action--the circumstances were much greater towards employee misconduct, for example, through perhaps a drinking on the job problem, theft, or assaulting a supervisor, or not following instructions properly. There is some small amount of anti-union motive but the board should go for whatever is the prime motive.

If the prime motive is anti-union and the person was discharged for some minor offence but the real motive was anti-union, all right, the person should be reinstated. But if the person was discharged for a major offence, and the board can detect a minor anti-union motive, the board should not be reinstating that person. They should be going with what is the preponderant motive.

Mr. Chairman: You are making an argument that they do not do that now.

Mr. Doyle: That is right.

Mr. Chairman: In general terms, though you question many of the procedures which are used by the board, you have not taken nearly as definitive a line as we heard this morning, for example, where the labour relations board was said to be grossly inexperienced and that the association had no confidence in the board.

You do not have a tone anywhere near that in your presentation here this afternoon, in your written brief. Do you not come to that conclusion?

Mr. Doyle: It was not a major point with us because we did not put it into the brief. We would like to see more industrial or practical experience among some of the board vice-chairmen than there is. But I would not categorize all of the vice-chairmen as being way out in left field.

Mr. Chairman: You did say left field?

The Labour Relations Bureau was very much to the point on that. We got a real feeling at the end of their presentation this morning that they felt the Ontario Labour Relations Board did not work.

You have suggested that some of their procedures are unfair to the people that you represent but you do not share that feeling with them, that some change in the procedures could happen which, in your view, would make things more equitable to both sides but the concept of the board itself and the functioning of the board, by and large, does work. Is that correct?

Mr. Doyle: That is a little difficult, perhaps, because there may be an attempt to put words into my mouth.

Mr. Chairman: I am giving you the opportunity to put your own words in your own mouth.

Mr. Doyle: We are not taking the position of being overly critical of individuals. We think that perhaps there could be a better attempt to provide education both to board staff and to vice-chairmen who may not be too familiar with industrial practices, the way the business world works. I know there are some vice-chairmen who are quite familiar with that. There could be a better educational job done but I would not want to put down all the board's employees or all the board's officials.

I think if the sort of procedural changes that we are talking about were made then the opinion of some of the other organizations who got more into personalities, it sounds like, might be different. Because if the procedures were being applied in an equitable manner I do not think there would be quite the same concern over the outcome. Decisions might be a little different, procedures would be different, people would have the feeling that they were being treated more fairly and then probably could more easily accept a decision that did not always go in their direction.

3 p.m.

In arbitration each side always wants to win but, obviously, only one side can win. But that does not mean the arbitrator who makes that decision never handles another case because if both sides have confidence that they will get a proper hearing from that arbitrator he will understand the issues and then make his decision. They accept the results and will go back to him again and again. I think that is the sort of thing we are looking at.

Mr. Chairman: The committee is trying to get some concept of whether or not the board fulfills its original purpose to hear and to make decisions on labour disputes, basically. If both parties agree that they have no confidence in the way the board is going that tells us a story. If both parties come in and say, "We do not agree with some of their decisions and we agree with others," that gives us a perspective on it. Perhaps if both sides are unhappy with it for reasons that they do not always win then maybe the board is doing its job. We are trying to get some assessment on whether the thing works to any one's satisfaction.

Mr. Doyle: I am not sure whether some of these people have suggested that the board be abolished and that some other method be found. Is that what has come out to you?

Mr. Chairman: We have not heard that suggestion.

Mr. Doyle: It has not gone quite that far.

Mr. Chairman: It was mentioned this morning that we bring in the Supreme Court judges to handle the stuff. But, in general, you seem to have focused on the procedures that are used in trying to work out some inequities that you think you have found.

Mr. Doyle: That is right, because we understood that that was what your assignment was, to look at the agency and the procedures that it follows, not to deal with the defects we see in the act because that is somebody else's job.

Mr. Chairman: We are prepared to deal with anything that has to do with the agency. The terms of reference are very broad and when we do write up a report it will probably contain some mention of parts of the act which are clearly not working, or which need to be revised, and some recommendations about procedure.

The first and foremost thing is whether or not we have looked at an agency which is serving a useful purpose. Of course, if it is not, we would not be too happy about keeping that agency in operation.

Are there any other questions?

Mr. M. Davidson: Mr. Chairman, I would like to get on to the reverse onus of proof section for a little, if I may. In your brief I expect that what you have written is the way you view the situation to be.

For example, you write, "This means that the complainant is not obliged to call any evidence whatsoever." Then you follow that up by saying: "Employers are compelled to answer unspecified charges." Then you say, "Because the employer does not know the case he has to meet he must enter substantial amounts of evidence." You are familiar with form 32 of the board, I would take it?

Mr. Doyle: I have not got a copy.

Mr. M. Davidson: Complaints under section 79. There are notations following that and, if I may, I would just like to read them to you. It says:

"Where a person intends to allege at the hearing of an application or complaint improper or irregular conduct by any person he shall (a) include in the application or complaint or, (b) file a notice of intention that shall contain a concise statement of the material facts, actions and omissions upon which he intends to rely as constituting such improper or irregular conduct including the time when and the place where the actions or omissions complained of occurred and the names of the persons who engaged in or committed them, but not the evidence by which the material facts, actions or omissions are to be proved and where he alleges that the improper or irregular conduct constitutes a violation of any provision of the act, he shall include a reference to the section or sections of the act containing such provision."

It would appear to me, looking over form 32 as used by the board and the notations that follow, that it would be, I would have to say, an employer who possibly did not understand the English language that would not know what the complaint was when he appeared before the board. Certainly, the person who lays the charge is not going to reveal what evidence he has to support his contentions, but I would suggest to you that the material that is provided to the employer clearly defines what the charge is and when and where it took place and who was responsible for it occurring.

Mr. Doyle: The description you read would certainly imply that. I am basing my remarks on conversations I have had with employers and people who represent employers, so perhaps this form is not being used in the manner that is stated and the facts are not being brought out according to what you have read out.

Mr. M. Davidson: I would think in the filling out of the form itself you must point out the section which is in violation. You must point out the time, the place, where the actions occur, the names of the persons who engaged in it.

Mr. Doyle: The sections of the act are stated in fairly broad terms, "the employer shall not discriminate against," but that doesn't add a great deal.

Mr. M. Davidson: I recognize that, I have had experience with filling out some of these forms myself.

Mr. Chairman: Are you making an argument that the employer seriously does not know what the allegation is when he goes before the board? I find that a little difficult to accept.

Mr. Doyle: Not in detail. Obviously if he has discharged somebody and the person files a complaint, he would know that it is about the discharge.

Mr. Chairman: Or if an incident occurs in a work place that might have been subject to a grievance, does he not have a very clear summary of the allegations that are made? This really is a new argument, we have not heard this one before.

It has always been my impression that it is about as clear as a traffic ticket. They tell me where, they tell me when, they tell me who and I go to court. I might not know all of the evidence that the other side has got, but I am pretty clear why I am there. You are saying that is not the case?

Mr. Sterling: The difference there is that the person making the allegation has to show his hand first and indicate the details of the allegation. The state has to say that it was at the corner of such and such a street and that the light was red and then you meet that case. I think what they are arguing is that they have to meet the case before the details are out in this instance.

Mr. Chairman: Is that the nub of the point, because this is kind of important?

Mr. M. Davidson: I think that is followed up on the next notation, Mr. Chairman, where it says, "No person shall adduce evidence at the hearing of an application or complaint of any material fact that has not been included in the application or complaint or in any document filed under these rules in respect to the application of complaint, except with the consent of the board and if the board deems it advisable to give such consent it may do so upon such terms and conditions as it thinks advisable."

In other words, they cannot produce evidence to relate to a matter that they are not aware of.

Mr. Doyle: I think that says they cannot introduce a new matter.

Mr. M. Davidson: Certainly if you go to court you are not going to reveal the main components of your case until you are arguing the case.

Mr. Doyle: But in court the prosecution has to argue its case.

Mr. M. Davidson: Your brief implies an employer goes before the board without having any idea of what he is there for--unspecified charges, that is what your brief says--and that he does not know the case that he has to meet. I am suggesting to you that is not a fact. Form 32 of the act and the notations that are provided with that indicate quite clearly that the charges that are laid must be laid out very concisely.

Mr. Doyle: I think it is the details we are looking for that the employer must prove his case.

Mr. Chairman: Could you provide, either for all of the committee or maybe just for John, some instances which you might have that led you to believe that? I have not heard this argument put by employers before.

If you have some specifics, maybe people who have been before the board who honestly did not know why they were there, maybe we could track that down a little bit further because it is news to me and I would be interested to know. I was always of the impression that both sides were well aware of what the nature of the hearing was and what the specifics of the instance was. If that is not the case in all instances, I would be interested in following up on that.

Mr. Doyle: Yes, we will look into that.

Mr. M. Davidson: Just one further question if I may. On page eight of your brief you have listed out the numbers of application cases that were heard in 1979 and 1980. There were 792 applications granted, 163 dismissed and 148 withdrawn. You point out that in 137 cases, or less than 20 per cent, there was an election held. There is a figure missing there. I wonder if you researched that. In how many of these cases was a petition filed on behalf of the employees?

3:10 p.m.

Mr. Doyle: I do not think that information was provided in the statistics we have.

Mr. M. Davidson: You are basing a large part of your argument relating to certifications on the petition factor and the delays that are caused by the introduction of petitions. I would have thought, seeing you have been able to gather all of this

other data for our information, you would have gone to the point of finding out the number of petitions that had been filed with regard to certifications before the board in order to substantiate the position you hold. It may very well be that out of the 1,103 applications there were less than one per cent where petition was involved.

Mr. Doyle: The main point that we are trying to get at is the need to hold certification votes. In some cases there are petitions. They tend to be very messy. Some of them get headlines. Some of them result in bitter strikes afterwards and you want to avoid those cases. But more important, we think that votes are the way to decide the outcome of certification applications.

Mr. M. Davidson: I have just one further question relating to that. As part of your documentation and evidence you use the fact that the National Labour Relations Board in the United States conducts elections in almost every case of certification. Is that right?

Mr. Doyle: That is correct.

Mr. M. Davidson: Are you prepared then to accept all of the privileges and rights granted to the trade union movement in the United States during a certification process? That is, the right upon filing to enter the plant to make sure that all the postings are where they should be so that the employees can see them; the right to look over the employer's documentation of the numbers of employees; the rights of the employees in that plant to check to make sure that the company is not filing anti-union materials on their bulletin boards or in any way mistreating their employees as a result of that application. Would you agree that we should have that in Ontario also?

Mr. Doyle: I think there are various things in the US system that may not be very desirable from an employer or employee standpoint. I am sure you are aware of how long it takes sometimes to get a certification vote in the States after the initial application. It may take months or it may take years. We certainly do not want that type of system here where the pot can be kept brewing for a great length of time and create a lot of unrest and instability in the work place. We are looking for a fairly quick vote so that kind of thing does not need to happen.

Mr. M. Davidson: You recognize, of course, that one of the reasons that the trade union movement in the United States has been granted those privileges is because there is a vote in every situation, and because of employer resistance to the trade union movement.

Mr. Doyle: I would think the trade union movement in the States might be better served without all of those privileges and with a vote that is held a lot quicker.

Mr. M. Davidson: It does not appear to me that they would suggest that.

Mr. Doyle: It does not appear that all those privileges are

doing some unions in the States very much good in getting a vote held.

Mr. M. Davidson: You may be right in that regard, but I think you will also agree that there are probably more complaints filed against employers in any given state in the United States than there are in the province of Ontario for failing to comply with the rules of the act. I can name some of these companies off, if you like, where the charges are in court and have been in court for a number of years.

Mr. Doyle: And in some cases maybe the union still is not certified, is it?

Mr. M. Davidson: Not in every plant but it is starting--if you want to take the J.B. Stevens chain, for example.

Mr. Chairman: Are there any further questions?

Mr. Sterling: Yes, Mr. Chairman. You mentioned that in Ontario you need 45 per cent of the bargaining unit to have a card before they can get a certification vote. With 55 per cent they do not need a vote if the board says so, and in Nova Scotia it talks about 40 per cent. If there was a secret ballot, would it be necessary to have as high a percentage to indicate there was at least a strong part of the work force that wanted a union? In other words, would 25 per cent be enough in terms of calling the vote as long as it was not done every month?

Mr. Doyle: Yes, I think that is the main thing. There needs to be some kind of a percentage requirement so that it is not a vote on demand--as you say, a vote a month or a vote a week. But I do not think it needs to be as high as 40 per cent. I think 25 per cent, 30 per cent--something in that area.

Mr. Sterling: So in terms of a tradeoff, you would be willing to accept that kind of a change.

In your experience, have you been in front of the Ontario Labour Relations Board often?

Mr. Doyle: No, in my position, which is representing manufacturers before groups such as this, and studying legislation and preparing submissions, I do not appear before the board, but I talk with people who do appear before it.

Mr. Sterling: I was going to ask, in the experience whether or not--I don't know whether the labour relations board is just becoming another court. In other words, why have a board? Why not just have the court deal with the matter?

If we have three people sitting up at the front, there is a chairman, there is a union fellow and a company fellow. The union fellow and the company fellow in most cases, I understand, take their respective positions and the chairman breaks the deadlock. Why bother going through that? And if most of the people who appear before the board are represented by counsel, is your

perception of the board a court? Is it a court to the people you represent?

Mr. Doyle: I don't know that I have ever heard any comments about it being a court. They have been concerned that it is very legalistic and it is becoming more legalistic all the time. Many of the decisions that are written are very lengthy and complex, and are what you would see coming out of a court. We view it as a quasijudicial body.

Mr. Sterling: I do not think there is any question it is that, but normally you set up a body to have a less formal atmosphere; usually that is why you have something quasijudicial.

Mr. Doyle: And to deal with situations faster than a regular court might be able to, and that doesn't necessarily occur either.

Mr. Sterling: That's right, it doesn't occur all the time. With the injunction process, it was shown this morning that in fact it was slower under this system than a formal--they could get a faster remedy from the former legal device of going through the courts. At least that was the opinion of the Ontario division of the Canadian Construction Association.

Mr. Doyle: Yet the cease and desist power or the declaration of unlawful work stoppage is supposed to be a quicker procedure than going to court for such a declaration. But it does not necessarily work out that way, and sometimes the board refuses to issue these orders, even though there is no dispute that the event took place or is taking place. The board has discretion.

We did not go into this in our brief, but it is something we have said in previous submissions. We feel that if there is a prima facie case that the act has been violated, that there has been an unlawful work stoppage, the board should be required to issue the order or the declaration. And it should not (inaudible)

3:20 p.m.

Mr. Sterling: We heard this morning about some complaints about the quality of the chairperson at one board and that they should be equivalent to a Supreme Court of Ontario judge. I am having a difficult time in my mind finding out what the difference is between the board and a court. If everybody is represented by lawyers anyway, the legalistic framework does not matter a damn because that is part of the trade and they soon learn it anyway.

Mr. Doyle: I guess one of the values of this system is that on a panel there is someone with particular knowledge of the employer's side and someone who has special knowledge of the union's side.

In labour matters that is considered to be of some importance. The chairman may not be particularly knowledgeable on either side, so they can bring a lot to the hearing in the questioning of the witnesses and in deciding the outcome of the

case. If you went to a regular court system, I do not think you would have that unless you made some special allowance for it.

Mr. Sterling: I do not have any other questions.

Mr. Chairman: Thank you very much, gentlemen.

The next group is from the Ontario Confederation of University Faculty Associations.

I think you have had explained to you previously the method under which testimony is being received today, and I understand you have a desire to be affirmed. Just for the novelty of it, that is what we will do.

Is there one person who will act as spokesperson for the group or are you all going to speak?

Dr. Shorten: If I may, Mr. Chairman, I will introduce the group and then hand over the major spokesperson role to the gentlemen on my left, Professor Frumhartz.

Mr. Chairman: That's fine, and you could do the affirming process as you go through the introductions, okay.

Dr. S.J. Shorten, affirmed.

Dr. Shorten: On my left, Mr. Chairman, is Professor Muni Frumhartz, from Carleton University. He is a past president of the faculty association at Carleton and he is a member of the executive committee of OCUFA.

M. Frumhartz, affirmed.

Dr. Shorten: Mr. Chairman, on my right is Professor Joseph Rose, president of industrial relations in the faculty of business at McMaster University.

J.B. Rose, affirmed.

Dr. Shorten: On the far right, Dr. Ronald Levesque, who is the associate executive secretary for collective bargaining at the Canadian Association of University Teachers.

Dr. R. Levesque, affirmed.

Dr. Shorten: On the left of Professor Frumhartz is Johanna Foster, who is president of the University of Windsor faculty association and who represents the University of Windsor on the board of directors of OCUFA.

J. Foster, affirmed.

Dr. Shorten: First, I would like to express our appreciation for this opportunity to present our brief to you and to answer any questions the board may wish to address to us.

I thought it might be useful just to say a few sentences

about OCUFA and how it is related to its collateral organizations. As our brief indicates, we are a confederation of associations. Members of the committee will be familiar with the fact that university campuses have general faculty associations, many of them including professional librarians. Some of these within the province are certified, some are not. Nonetheless the confederation consists both of certified and noncertified associations.

OCUFA is the provincial organization. Dr. Levesque, on my far right, is here from the Canadian Association of University Teachers, which is the national organization of professors in this country. While there are some areas in which both the national and the provincial organization work, I should point out that in the area of collective bargaining, it is the CAUT which has played the predominant role, and we are, therefore, very grateful for Dr. Levesque's participation in the work of this task force in the presentation of this brief.

I think without further ado, I would just like to ask Professor Frumhartz if he would introduce the topics of the brief.

Mr. Frumhartz: Mr. Chairman, our brief, as you can see, is brief, and I shall, in a similarly brief fashion or in even briefer fashion, go through it and draw your attention to what we think are its highlights.

We begin on page two by expressing our general satisfaction with the workings of the Ontario Labour Relations Board, certainly so far as faculty unions are concerned. In other words, we are and we have been pleased by the way in which the OLRB has addressed itself to the concerns of a unionized university faculty.

Then, in true academic fashion, we qualify that on the next page. We point out, for example, that there are two decisions in particular that concern us, the one of a few years' standing was the decision of the OLRB to exclude from the proposed bargaining unit faculty of York University, Osgoode Hall, the law professors at Osgoode Hall.

We next draw your attention to a more recent decision which, in some ways, puzzles us more and that is the recent decision of a panel of the OLRB to exclude from the--I believe--established Trent University Faculty Association a small number of people who are college heads. We have read that decision and we find some difficulty in understanding it, but our point in mentioning it to you is not so much our difficulty in understanding exactly what the board panel had in mind. Our concern rather is the possibility that future decisions of the OLRB will be off on a somewhat different tack than they have been in the past.

On page five, we come to some suggestions as to new directions and policy development that the OLRB might possibly take, and that from our standpoint it would be desirable that it do so.

One matter has to do with a reconsideration of past decisions. We, in fact, urge that the board move in that

direction. Now we are aware, in making that suggestion, that can work out in ways that are not entirely pleasing to ourselves and might even work out in ways that would disrupt the smooth functioning of the board, and so what we try to do is specify on page six, about one third of the way down, almost halfway down, the particular circumstances in which we are proposing the board might move to a policy of periodic reconsideration.

We attach sufficient importance to those specifications that--perhaps it might be well if I read you that one sentence:

"Accordingly, we would urge the board to consider a policy of entertaining applications for the reconsideration of bargaining unit decisions under either of two circumstances: First, when policy has subsequently changed, therefore raising the problem of equity in regard to earlier decisions; and second, where it can be shown that the special circumstances which had led to a departure from general policy are no longer compelling."

It is those two points, and those two points in particular, that we would suggest might perhaps govern a policy of reconsideration on the part of the board.

Later in that page, we come to our second item in the general area of new policy. We pick up the matter of managerial exclusions and the matter of supervisory units.

We are urging more generally--not simply on our own behalf--that perhaps the Ontario board might follow the developing practice in other jurisdictions of taking a somewhat broader view of what is actually going on in the sphere of labour relations to recognize that the model of a closely organized structure with sharp separation between management and the rest no longer quite applies, at least in many places, and therefore that the board might take a somewhat looser view of where the dividing line is between management and nonmanagement.

3:30 p.m.

More particularly we come in that section to the point about supervisory units. Here is where our experience recently with the Trent decision puts us in mind of an application with respect to universities; that is, if it was indeed necessary or appropriate to separate the college heads from the faculty, which once again we are very unclear about and we are not sure that that is appropriate. None the less, the college heads would not be denied the right to the collective bargaining process if they were, let us say, organized as a supervisory unit.

We draw your attention to the practice and the decisions in other jurisdictions at the federal level and in Quebec and British Columbia to the rather significant and, as I understand, imaginative use of the notion of supervisory units as a way of recognizing that the industrial world even has in effect undergone a certain amount of change from this period of sharp exclusive separation of management from the rest.

We come on page nine to a number of more general

considerations. I might say that these considerations arose out of our own discussions and we have not come to any particular view of these matters. They are matters that are of interest and concern to us.

What we are really doing in these few pages, which perhaps might be considered apart from the rest of the brief, is in effect to pass on to you some of the questions that arose in our own minds as we discussed the preparation of this brief and, in particular, we mentioned the question of the review of the act, that it may indeed be high time for that to occur.

We take up the question of the adequacy of resources that have been provided to the OLRB and the question of the membership of the board and, more particularly in that connection, the question of how people get to be members of the board. But I should draw your attention, as we suggest on page 10, that in doing this we are perhaps less concerned about the OLRB than we are raising a question about agencies and boards in general, again arising out of our discussions.

We conclude, as we began, by saying that on the whole we are very pleased. We think that the OLRB has for the most part made the right decisions with respect to faculty unions. They have made decisions that have not only made it possible for faculty unions to become certified, but have made it possible for faculty unions and their universities to meet in a very effective way within the general orbit of the labour relations board, but once again we do not want, as academics, to be seen as going overboard for one existing set of arrangements.

We remind you in the conclusion of some of our qualifications, even though our general reaction is that of considerable satisfaction. Certainly I, and I am hoping more especially my colleagues, will be prepared to answer any questions or respond to any comments that you may have. Thank you.

Mr. Mancini: Just a question concerning the supervisory units. Did I understand correctly in your brief and in your short comments that you felt that the board had not made any decisions or statements concerning the collective bargaining rights of supervisory units because they felt that they were not able to come together to form collective units? Is that the crux of your comment?

Mr. Frumhartz: Our point is that, judging by the practice of other jurisdictions, the federal level and some other provinces, there is considerably greater scope for supervisory units that would therefore maintain as wide a net of eligibility for participation in certification and the collective bargaining process as possible.

We are aware that some question has been raised about whether the board has the capability to do so under the act. It is our view, as we suggest on an earlier page, that in fact it does.

Mr. Mancini: Whom would you classify as supervisory unit personnel at university level? Could you give us some examples?

Mr. Frumhartz: I suppose, just at random, I could take an example from my own university. We have certain people called directors of institutes. Those are outside of the bargaining unit right now. It might make sense--it would give them access to the bargaining process--for them to be included.

The case about Trent is another example; those college heads, we would think, are appropriately the sort of people, sort of middle management people, who are of course in some respects close to management but they are also faculty and they have interests in common with faculty. Moreover, their position is a position of perhaps two or three years; they continue to be faculty; they return to the position of being faculty. It simply does not seem appropriate for them to be outside of the whole process.

Mr. Chairman: I have a couple of questions I would like to put to you. First of all, I think one of the things the committee would appreciate is that you probably represent a group of people who would not be thought of as a union in the traditional sense and represent a growing part of the population.

Mr. M. Davidson: Only by some people.

Mr. Chairman: The old idea that the union represents people who work with their hands in an identifiable work place is fast being--

Mr. Frumhartz: We do have the identifiable work place so far.

Mr. Chairman: You seem not to fit the traditional modes of a union and of course the labour relations board is set up to deal with that very traditional idea of a union and whom they represent and the kind of resources that they have, and management and whom they represent and the kind of things which they have at their disposal.

You have pointed out some areas that do not quite fit the system as all of us know it and understand it and hate it, and whether or not the labour relations board has been able to adjust. In part you are making an argument that they have shown some abilities to redefine roles and to clarify the situation.

I did not quite get the point of it all. Are you satisfied? Because you said on the one hand we are, because you have made some decisions which indicate that you do not always do it the way you have always done it; you have made some decisions which do; and on the other hand you really have not done that. Could you just elaborate on that a little bit for us?

Mr. Frumhartz: Perhaps I will ask some of my associates since I have, I think, just about spoken my piece on this. Perhaps they would add something here.

Dr. Levesque: I think the one-word answer is, "Yes." I think we have raised two specific cases out of a large number of cases, since you asked us what we thought. These two cases do not

fit the pattern on the whole and on a very large part of that whole the board has been flexible in its approach to our peculiar or particular types of work place which, as you said, does not fit the standard mould but I am sure, as you are aware, neither do many of the other areas that are now becoming unionized. For example offices, banks; they do not fit the traditional mould of the UAW, for example, in the plant, or the Steelworkers.

So in that sense, in our view, to date the board has been flexible. In some cases it has led the country in terms of its approach, its understanding and its ability to use the legislation to fit what is a different type of work place, but a work place none the less.

3:40 p.m.

There are two cases which we are somewhat concerned about where there does not appear to be any reason either in the awards that we can understand. For example, at the Trent case, as I remember, the problem was that these college heads had supervisory functions over people who were not in the unit at all but which was a very small part of their work. That did not make an awful lot of sense to us at that time.

In terms of the Osgoode situation, the board admitted that they were employees like the rest of us but that, because of the history of the connection between Osgoode and York, they should be excluded. In that sense, that did not make a lot of sense to us at that particular time. Those are two cases out of a very large number of cases which, in our view, require some further look at. But on the whole, yes, we are satisfied.

Mr. Chairman: So the litmus test is whether everybody back there recognizes what the name of the game is, who is management and who is not; the litmus test is, in your case, reasonably good. When I visit the gates of General Motors it is not hard to tell management from everybody else. Everybody has got a lunch bucket but the management guys always have a shirt and tie on.

There is no difference that you can see externally. Internally, I am told, there are some differences which emerge from time to time.

Mr. Ruston: That is not a fact in Windsor.

Mr. Chairman: Do you find that there are complicating factors in establishing that delineation of who is within the bargaining unit? For practical purposes, after this exercise has occurred and you have determined who will be excluded and who is inside, for you and the people you represent, are there continuing problems afterwards?

One of the things we used to run into when I was teaching--and they still have not resolved that argument of whether teachers are in a union or not; many people seem uncomfortable to be classified in that role. I guess many of us have walked some unusual picket lines, even 10 years ago, to suggest that this group of people would be outside on a sidewalk

with a placard around their neck would have been ridiculous but, none the less, the fact remains they are now doing such things. Does it work afterwards? Is it reasonable and satisfactory to have those people in what is loosely called a union context in dealing with groups like the labour relations board? Are you able to resolve your problems?

Mr. Frumhartz: I think the experience of individual associations is somewhat variable when it comes under particular circumstances, but I think the short answer to your question is yes. This is the point that we intended to make from the very first page. This is to the credit of the OLRB from the first instance of faculty unionization in this country.

To put it another way, from our standpoint, it made exactly the right decision right at the beginning, namely, that decision about departmental chairmen. But that has had the further effect within the framework of the collective bargaining process. It has permitted universities and their faculty associations at one and the same time to continue with the peculiar practices of academic freedom, if that deserves to be called that sort of practice, and all the rest that goes with it along with some of the realities, and some of the interactions and different interests that are a future of unionization and collective bargaining both at universities and, of course, even more elsewhere. So the short answer is yes.

Mr. Rose: I would like to say that in many respects the university faculty share a cross-section of attitudes not unlike other professionals. It seems to me that the dividing line, in terms of attitudes, is not between management and, let us say, the managed. I would say without hesitation that many faculty members who have some strong views about unionism, negative views, are included in bargaining units, just as there are probably some department chairmen or managers in universities who have strong views one way or the other.

I think the point that the Canadian Association of University Teachers, and most of its affiliates who have certified, have pushed for is the notion that the criterion of community interest is campus life and have argued against fragmenting that in terms of segmenting different faculties, or different management "groups" such as college heads from that broader community of interest.

I think that has been our main concern. I think the Ontario Labour Relations Board has been particularly sensitive to that, with the two possible exceptions cited in the brief.

Mr. Chairman: For example, I would tend to make this distinction, that for purposes of collective bargaining there are a great many advantages for everybody out there who works at a job somewhere. It is relatively simple to have them go through the bargaining process.

The fly in the ointment is after the bargaining process and the day to day stuff, the grievances, the status thing, all of that. A number of people that I know have been in a bargaining

nit have been promoted to management. For purposes of determining how much they get paid it is a nice relatively simple task. So that is no problem.

What kills them is the after stuff, that they are not just a bargaining unit which, once every year or so, settles down and decides how much they are going to get but the next day about whether they are expected to toe the company line, whether they can handle a grievance, who gives the orders, who says you have to do this and somebody else says you cannot do that because the agreement says I have this right. Is that the area where your problems fall? Do you have no problems with that at all, or what?

Dr. Levesque: I think we have the same problems that any union organization has. There are disagreements about what the collective agreement says because once every year or once every two years we did not do the job properly, or we misinterpreted each other. But I do not think we have any different problems from any other employee group that is attempting to deal with a grievance or a dispute.

We have not had any special problems, if that is what you are asking, that I know of. I have been in both contexts, both the so-called traditional model, industrial model, which always escapes me when I try to find it, and the faculty bargaining unit.

I would say that I do not see any special problems. If anything, in my view, the system works very effectively, in fact, better because everybody knows what the rights are and what their duties are in terms of the grievance procedure and in terms of the collective agreement.

Mr. Chairman: So, in your sense, it has served to sharpen up grey areas, draw the lines clearer so that everyone understands what the other person's rights really are. You have not run into that kind of problem.

Dr. Levesque: Having wrestled with putting faculty procedures into contract language, the short answer is yes.

Mr. Frumhartz: I might just say, too, that you can see the sort of answer that we would be giving operating internally in the university in another sense. At my own university, for example, we have a number of unions and a number of bargaining units. If you compare the faculties which include professional librarians with that of the support staff, it is an entirely separate union and now linked with Canadian Union of Public Employees, which previously was by itself.

Our problems and their problems are, in some respects, very similar. They are the problems of workers and their managers. In other respects, because faculty have a different kind of career, different kinds of work that they do, the problems are somewhat different. But I do not know that you can look at these two and say here are problems and here there are no problems. Obviously, as you know, it does not work that way.

Mr. Chairman: When you go before the board in its

traditional form of having someone there appointed to represent unionized workers and someone there appointed to represent management and some third party who would blow a whistle every now and then, do you feel well represented in that situation that you would get a fair hearing?

Mr. Frumhartz: Ron, you might be the only one who has appeared before a board. I certainly have not.

Dr. Levesque: On the basis of what we have said, I think, yes, we feel we have got a fair hearing. If you are asking us another question, that is, would we like to have, from time to time, representation as a union rep on one of those boards, again, the answer to that would be yes.

3:50 p.m.

Mr. Chairman: Do you run into a problem which has come to my attention on more than one occasion now of people who, in the very traditional sense, would have been thought of as management people, middle management probably is more accurate, putting themselves together with a bargaining unit, and having difficulty relating to other bargaining units?

In your situation you will have other bargaining units working in the same work place. Has that posed much of a problem for you?

Mr. Frumhartz: The other bargaining units?

Mr. Chairman: Yes.

Mr. Frumhartz: Having a number of bargaining units?

Mr. Chairman: Yes.

Mr. Frumhartz: I do not know that--again speaking for my own university, I do not know that has been a serious problem. Or to put it another way, and this may not be the place to make this point, if the university had more money, we would have fewer differences among the bargaining units.

Mr. Chairman: It is a matter of some interest to me because it would be my guess that the future is going to see more people involved in adopting a bargaining process, joining a bargaining unit, and I am not terribly clear that the Ontario Labour Relations Board is equipped to handle that. I am not awfully sure that anybody else is either, including those people who very much want to get into bargaining units, because I find some rather interesting conflicts in there.

On the one hand, they want the ability to bargain freely, openly, and collectively. On the other hand, they do not want to have any association with anybody else. They want the very best of the collective bargaining process without any of the collectivity or normal union activities that everybody else has to get. I can think of a number of examples of that.

You are rather giving me an optimistic perspective today that it has been your experience that the board can adapt to that and the people who you represent are reasonably satisfied with the process.

Any further questions?

Mr. Eichmanis: I was wondering if you could expand, from your remarks on page six, when you asked us to look at that sentence, "Accordingly, we would urge the board to consider a policy of entertaining applications for the reconsideration... first, when policy has subsequently changed..."

I am wondering if you could elaborate more on whose policy this is? Is this the board's policy you are talking about has changed?

Mr. Frumhartz: Yes. The board's, yes.

Mr. Eichmanis: I see. Are you asking for a formal process? Under legislation now, as I understand it, there are opportunities for the board to make reconsiderations of cases.

Mr. Frumhartz: I think it was the view of some of the members of the group who prepared this that perhaps the board should commit itself to a more regular--I will not say an instance-by-instance process, but a more regular process of review, sort of to stand back and to look at its own decisions as they have evolved, and the consistency of those decisions.

It may therefore be that from time to time, and we would certainly hope it is not more often than that, the board, in this process, would come to see that however it happens, the drift of its more current decisions was opening up a new view of labour relations. It might therefore look back and reconsider some of the earlier decisions, in effect to bring them into line in the interests of equity of treatment of people who are similarly situated.

Mr. Eichmanis: Are you suggesting that they would overturn their previous decision after a number of years of--

Mr. Frumhartz: I do not know that any of us has thought of how it would actually work, but, yes, I suppose there would be cases, probably very few, but there would be cases where the board would find itself saying, "We want to reconsider this," and would undoubtedly call upon the parties involved to enter into this process with them.

Mr. Chairman: Thank you very much for appearing here this afternoon.

The next presentation is from the Ontario Federation of Labour. We have a small problem here in that one of the people from this delegation has to leave very shortly. I have had a request to test the waters to see if we could perhaps hear this presentation tomorrow morning.

Does the committee have any feeling on that? It is a matter of convenience to the people we have invited to provide testimony.

Interjection: Which group was that?

Mr. Chairman: It is from the Ontario Federation of Labour. It would appear, because tomorrow, all day, we had scheduled for the labour relations board.

Interjection.

Mr. M. Davidson: I would suggest we accommodate them and listen to them tomorrow morning.

Mr. Chairman: Are we agreed?

Mr. Sterling: If they cannot do it today, that is fine.

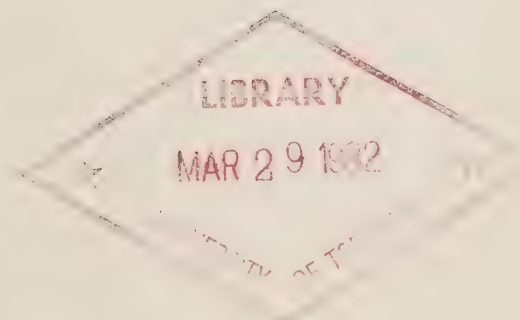
Mr. Chairman: Okay. The committee stands adjourned until 10, and we will pick it up with the presentation of the Ontario Federation of Labour.

The committee adjourned at 3:56 p.m.

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STANDING COMMITTEE ON PROCEDURAL AFFAIRS
REVIEW OF ONTARIO LABOUR RELATIONS BOARD
THURSDAY, SEPTEMBER 25, 1980
Morning sitting



STANDING COMMITTEE ON PROCEDURAL AFFAIRS

CHAIRMAN: Breaugh, M. (Oshawa NDP)
VICE-CHAIRMAN: Davidson, M. (Cambridge NDP)
Charlton, B. (Hamilton Mountain, NDP)
Kennedy, R.D. (Mississauga South PC)
Mancini, R. (Essex South L)
Rowe, R.D. (Northumberland PC)
Ruston, R.F. (Essex North L)
Sterling, N.W. (Carleton-Grenville PC)

Research Officer: Eichmanis, J.
Clerk: White, G.

Witnesses:

Munro, A.H., Assistant to the National Director,
United Steelworkers of America
O'Regan, H., National Representative,
Canadian Union of Public Employees
Peacock, H., Legislative Representative

LEGISLATURE OF ONTARIO

STANDING COMMITTEE ON PROCEDURAL AFFAIRS

THURSDAY, SEPTEMBER 25, 1980

The committee met at 10:19 a.m. in committee room No. 2

REVIEW OF ONTARIO LABOUR RELATIONS BOARD
(continued)

Mr. Chairman: The committee will come to order. The presentation this morning is from the Ontario Federation of Labour. Mr. Peacock, you are familiar with the procedure of swearing in witnesses this time around. Would you introduce them and then, as we have the introductions, we will do the swearing in.

Mr. Peacock: Yes, Mr. Chairman. On my right is Helen O'Regan, national representative of the Canadian Union of Public Employees.

H. Peacock, affirmed.

H. O'Regan, sworn.

Mr. Peacock: On my left is Mr. Bert Munro, the assistant to the national director of the United Steel Workers of America.

A.H. Munro, sworn.

Mr. Peacock: Mr. Chairman and members of the committee, first may we thank you for the opportunity to appear and also thank you for your kind consideration yesterday in accommodating our own appointment difficulties at the end of the day.

Secondly, I would like to convey to you the regrets of our president and secretary-treasurer, Cliff Pilkey and Terry Meagher who would have wished to be here for this submission but are attending a meeting of our executive board in Ottawa yesterday and today.

The clerk, Mr. White, has two items, actually three, for distribution. One is a two-page set of points for discussion in which we tried to highlight the matters raised in the text of our submission. The third item is a policy statement adopted by our 1978 convention on labour relations reform. I take it that you prefer we not read the main text of the submission. Perhaps we could use the paper entitled, Points for Discussion, and I can refer to our text as we go along.

First, we would like to echo the submission made to you yesterday by the Ontario Confederation of University Faculty Associations that it is timely that the Legislature undertake a comprehensive review of the act. The last set of major amendments respecting the nonconstruction sector were proclaimed in 1975, and

were certainly considerable in the extent to which they amended the act.

On November 1, 1979, the federation and the large number of representatives of its affiliates submitted to the Premier (Mr. Davis) and the Minister of Labour (Mr. Elgie) a set of proposals, about 17 in number, calling for such a comprehensive review of the act. I believe that document has been circulated to you also. It is the green-covered submission.

Mr. M. Davidson: Is this the one?

Mr. Peacock: Yes, that is the covered page, Mr. Davidson. So to raise some matters with you I have selected some which are in the submission of November 1, and others which we think, in regard to the procedure of the board, could be raised directly with you today.

First of all, the matter of employer retaliation against employees exercising their right to form a trade union is one that is causing us a great deal of difficulty. The employer acts first in dismissal or taking other disciplinary action such as reassignment, transfer, et cetera, against a worker. When the employer wishes to oppose the formation of the trade union, the employee and the trade union must then react to that by the filing of a complaint with the board alleging that the employer has violated the rights of the worker and asking for reinstatement and compensation.

We have said on a number of occasions that notwithstanding the board's best efforts to expedite a hearing in the settlement of complaints of dismissal for union activity, the only remedy that really will work to protect the worker from loss of income, to protect against the intimidating or chilling effect that such dismissals have on an organizing drive, is to amend the legislation to require the employer to reinstate any employee whom it is alleged has been dismissed for union activity or for other exercise of rights under the act until such time as the board itself determines whether, indeed, the employer had just and sufficient cause for that action. We do not think this would mean a great deal of delay because it would be in the employer's interest at that point to expedite a hearing.

We would put in at this point, if we may, a comment on submissions made to you yesterday complaining of the reverse onus that is now found in section 79(4)(a) of the act which was put in in 1975. You heard a great deal about that from employer representatives yesterday. We would ask you to look closely at that argument.

The employer does not come to board presumed to be guilty when faced with such a charge. The employer comes to the board in the position of having to go first because the employer knows the reasons why the employee was fired, or otherwise dealt with. What frustrated us totally in the pre-1975 picture, before this reverse onus was enacted, is that we had to make the case, and we were the ones who were in the dark as to the employer's motives in dismissing the employee.

That is the basis for the change. We had great difficulty in establishing the employer's motive as being an anti-union motive and not a legitimate cause for dismissal or other action. I can give you one of the absurd extents to which, even under the present provision, you can find yourself.

In an organizing campaign in which I was involved with a newspaper employer in the city of Toronto, one of the employees, who was in a somewhat quasi-supervisory role, was dismissed, according to the employer, because the supervisor had failed to get rid of a newspaper carrier whose squeaky wagon was waking up customers in the morning as he went around delivering his papers. They accepted that as cause and we lost our complaint. So this employee, who was our leading organizer in that department, was dismissed.

Mr. Chairman: The board held that the squeaky wagon was just cause?

Mr. Peacock: That was one of the grounds the employer gave for acting to dismiss the employee: lateness; failing to phone in; and a couple of other matters.

Mr. Chairman: This has been established now as a precedent.

Mr. Peacock: No, I would not say that, Mr. Chairman. From then on we have referred to it as "the squeaky wagon case."

Mr. Chairman: Not one of their more distinguished moments.

Mr. Peacock: I put that in as an illustration of the extent to which the employer is protected, in a sense, in the exercise of its managerial functions in determining whether it is going to retain someone in employment during an organizing drive.

Mr. Sterling: One of the whole problems I find in all of this is that it seems to be a very adversarial approach in terms of the whole deal, the organizing of the union in the plant, the certification and all the rest of it. There does not seem to be anything democratic about it.

For instance, I know how human nature is; if you are asked to sign a card you may be intimidated by one side or the other side, depending on whatever you might feel on that. The question of whether you are coming to a decision based on what you think the union might be able to do for you and, on the other hand, why you should not have a union, why it is not necessary to have a union in that case, never seems to come to the fore.

In other words, where is the process where a guy can get the facts and make a decision? I think the firing and the reverse onus all sort of evolve out of the major problem and it seems to be very undemocratic.

Mr. Peacock: Mr. Chairman, perhaps I might call on one of my colleagues to respond to Mr. Sterling's remarks but, before I do so, may I suggest to the committee that it ask the board when

it appears about the number of instances in which union membership evidence has been invalidated because of coercion or any other irregularity. I am sure they can give you that kind of record.

I could draw your attention to page two of our brief, the main text, which very briefly, of course, describes the board's processes of inquiry. I understand you are speaking about the way employees obtain information.

Mr. Sterling: What I am asking is do you generally agree with the way the process goes on now in terms of certification and organization? We heard the manufacturers say yesterday that they would be willing if, say, you got 25 per cent as long as it was a secret ballot. I think there was also a plea by an earlier group, a contracting association, that they would like the employee to get some kind of knowledge of what in fact he was voting for or voting against.

The process seems to operate on rumours basically, one side saying these guys are good and one side saying these guys are bad. It just does not seem like there is a decision that can be made by the worker as to whether it is good or bad.

Mr. Peacock: Perhaps Mr. Munro would comment.

Mr. Munro: Mr. Chairman, to answer a number of questions that you have asked, and I will try to deal with them; your first question was are we pleased with the way the process works now, and I think the answer to that has to be no, we are not.

I think that the trade union movement in Ontario believes that the relationship between workers who are unorganized and any union that wishes to organize them is a situation where that union has a responsibility to express its views to the work force and encourage them to join a union so that they may become organized. I see no place for the employer in that relationship.

10:30 a.m.

The employer in Ontario seems to believe that he is the guardian of his employees' rights rather than the employee. He believes very firmly that at a certification hearing the union and whatever it has to do to establish its bona fides presents its case to a board who has the responsibility to go through the cards to determine whether there is legitimacy in them, and it does that very, very thoroughly, I may add. I see no place for the employer in that exercise.

The employer ought to be required to attend a hearing to give the board essential information as to its work force, who works there, what their names are, specimen signatures for the purpose of the board checking the validity of the cards, but further than that the union has exercised its obligation in advising the employee of the employer of all of what a union might mean. That has nothing to do with the certification process.

The act provides that the employees have the right to join a

union. Nothing in that right ought to involve the employee's employer.

Mr. Sterling: I cannot accept that. In my particular riding I have companies that are genuinely interested in the welfare of their employees, companies that have been there over 100 years--the Canada Starch Company Limited, who have a very good working relationship with their union now.

I just cannot accept that the employer who has worked with these people for a long time before the union comes into it, which is a foreign body in many cases, would not have some kind of advocacy role in the whole area. You are divorcing the worker totally from the employer. You are saying the employee and the employer have nothing in common.

Mr. Munro: In exactly the same way as the employer divorces himself from his employees. The employee has absolutely no function in the running of that business, the decisions that are made with regard to that business, the product they will produce, where they will produce it, how many people will be employed, for how long. That is the other side of the coin.

This act provides that employees have a free right to choose a bargaining agent of their choice. It ought not to be marred by employer interference which it amounts to. When the employer interferes in that process, albeit well intentioned at times, then he ought not to be permitted to do that. That is our position in answer to your first question, are we happy with the situation.

Mr. Sterling: Who brings the other side of the argument to the worker?

Mr. Munro: The worker ought to make a decision for himself.

Mr. Sterling: I mean is union one better than union two?

Mr. Munro: Then why should it be the employer, why not the church, why not his member of Parliament?

Mr. Sterling: Maybe it should be.

Mr. Munro: But why should it be? That is interference, we believe.

Whether you agree with us or not, we believe that the employee has an obligation to make his mind up and the union has an obligation to try to persuade him of the value of joining a union, to bargain for his or her rights with the employer. The employer's usual ulterior motive is not to have a union so that there will be no one bargaining on behalf of the group of employees. This makes it a little easier for the employer as a rule.

Mr. Sterling: He is losing a piece of control that he has and generally speaking, whether it be politics or any other kind of endeavour, people like to have control.

But what I am concerned about is what is best for the worker, be it that union or another union or whatever. I just do not see the process as being successful in that end. What you are saying now is that you would even take that to a more exaggerated stage whereby there would be no opposing or alternative argument placed before the worker, but would you have the government place--

Mr. Munro: If the government chose to do that, I would prefer that to the employer doing it.

Mr. M. Davidson: Could I have a supplementary?

We were left with the impression, in listening to some of the evidence yesterday, that somehow or other the employer did not have the right to communicate with workers during a certification process in terms of disseminating information, but I do not believe that is true. I believe that they can, in fact, communicate with the employees and they have, in fact, been known to mail out letters and various other things to the employees indicating as to why they do not feel a union is necessary. Now is that common practice, to your knowledge?

Mr. Munro: It is fairly common practice for companies, when they discover that a union is organizing its employees, or sometimes they discover it when they are notified by the board that an application for certification has been made. It is quite common for them to close the plant and have a closed meeting with all of the employees in the cafeteria during working hours. There is nothing illegal or in contravention of the act, as it sits at the moment, that says that is not permissible.

There is a fine line that they must toe up to in terms of their freedom of speech, but that is a fine line that can be fairly well orchestrated and has been, and is usually orchestrated in a fashion that--and if you read the board's decisions in this regard, you will find a fairly fine consistent pattern to it all, where they bring the employees in; shut the machines down at three o'clock rather than four; bring them into a cafeteria; the manager will have the lawyer of the corporation there; he will hand out a prepared statement to two or three of the people in order that when it eventually comes to the board, that there is a record of what he actually said.

So he is toeing hard up to the line over which he cannot go, but he is interfering with their rights as the act now is, but it is very common for the employer to communicate with employees and express their concerns. They cannot threaten; they cannot coerce; they cannot say that they are going to close the plant if the union is certified. These are things they cannot say, but it is quite common for them to communicate.

Mr. M. Davidson: That holds true for the union also.

Mr. Munro: That's true.

Mr. M. Davidson: Now in your experience in the labour movement, have you ever found it possible to organize a plant or a

group of workers who did not want to be organized or felt it was unnecessary to be organized?

Mr. Munro: Never, to my knowledge. I do not know how they would sign a card and pay the required dollar.

Mr. M. Davidson: Now there have been indications that somehow or other trade union organizers go into various locations, and through means outside of the law, I would suspect, that the reference was being made, somehow or other force people into joining a union. Has that ever been your experience?

Mr. Munro: I am sure there are cases where that has been proven, and the case is thrown out by the board. The board is so strict with regard to the manner in which workers are organized, the scrutiny that they put the cards to, if there is any hint of wrongdoing, if someone suggests that a dollar was not collected or that it was borrowed from someone else. There are many cases on record where the board has taken such a hard line, and very often we believe on someone who is not a professional organizer, but we are supposed to make them a professional organizer before they organize.

I am not arguing or quarrelling with the board's scrutiny of cards. I think it is proper, but it is so complete and total that if there is ever any hint that there is any wrongdoing in an organizing drive that case is finished. You might get one card where someone alleges that they did not pay their dollar, or it was not their dollar that they paid, and if that organizer has signed 50 cards, usually all of those 50 cards are discarded.

10:40 a.m

This is the kind of scrutiny the board puts the cards through, and I am not quarrelling with it, but for there to be the allegation that there is coercion, that there are threats, if that comes before the board, the case is finished.

Mr. M. Davidson: I would expect that if this were the case, that the employees have felt that they had been coerced into signing a card or intimidated into signing a card, one of the first things they would do would be to raise the issue, and that matter would then appear before the board. At least that has been my experience in working with the union.

Mr. Peacock: The committee has expressed some interest, Mr. Chairman, in votes. Mr. Sterling just referred to the submissions made yesterday by the Ontario chamber and the Canadian Manufacturers' Association calling for a vote in every case where a minimum number of application cards could be submitted.

The act already deals with that proposition. It has been rejected. In section 7(a), which was enacted in 1975, the board was given the power to disregard the result of a representation vote where the employer's interference was such as to virtually intimidate the employees out of their right to choose, and that happened. That provision went into the act because votes cannot be

insulated. Even votes cannot be insulated from employer interference.

The Dylex case is perhaps the most notorious of those. That employer is now awaiting a trial date.

Mr. Mancini: Are these votes supervised or are they (inaudible)?

Mr. Peacock: Oh yes. Each of those representation votes, where the card count--

Mr. Mancini: Pardon my ignorance, but I find it difficult to see any undue influence from either side when a person can go into a cubicle which is blocked off, and in the secrecy of this area of space, mark as he so chooses, because we do that on a regular basis for our municipal elections, our provincial elections and our federal elections--

Mr. Peacock: Mr. Mancini, I am sure you are not suggesting that election campaign periods for the Ontario Legislature are of one day's duration, I wish they were. There is obviously a campaign period preceding the vote--

Mr. Mancini: There is one day to vote. You cannot vote over a weekend.

Mr. Peacock: There is a period of 72 hours; there is a blackout period, but prior to that there is a campaign period in which the trade union and employer communicate with the constituents about the vote, and what the employer says during that period can have a very great deal of influence.

The work place is not a democratic society. You go there because you have to obey the employer, you have to appear on time or you get docked. If you are insubordinate to your foreman, you get fired. There is absolutely no equality.

Mr. Mancini: How can you have more protection the other way? I am not saying that we should have a vote in every case, but I do not seem to be able to follow you when you say that, like the other way, by selling cards for a dollar, the employee can feel more free.

I cannot see that. I know a lot of people who would rather do it by the vote, so that they could keep their privacy to themselves or they keep their decision to themselves, and then we have a collective decision made, which is then made public. I think through the collectivity we have a strong organization. I am sure you agree. That is what trade unions are all about, I think, of the strengths of collectivity.

Mr. Peacock: If the board's experience had been that the privacy of the ballot box in the representation vote could guarantee the freedom of choice, then we would not have section 7(a) in the Labour Relations Act.

Mr. Sterling: But surely what we are talking about--you

keep going back to the existing philosophy in relation to this thing, and what I think the Canadian Manufacturers' Association said yesterday. The dollar or the two dollars is a hamper to the union organizer and they were willing to concede that maybe it is useless, that all it does is cause a thorn in the side of the union and the union organizer.

They were willing to say, "Maybe we will agree to forgo that you have to collect a dollar." They seem to be quite open. They say, "Instead of 45 per cent, we would consider something like 25 per cent. If you get 25 per cent, you can have your vote."

They seem to be quite open to some kind of a democratic process. But I read you--

Mr. Peacock: I am sorry, Mr. Sterling--

Mr. Sterling: Or what they view as a democratic process.

Mr. Peacock: I fail to see why my visit to a worker in his home, sometimes with his wife present, or the spouse if I am visiting a female employee, and talking union to that person is any less democratic, in obtaining their consent voluntarily to sign an application for me to represent them as their collective bargaining agent. They pay a dollar or \$5 now at the Canada Labour Board as a financial consideration. It is not just--I think the theory of the payment of the dollar or the \$5 is that it is not just a casual decision. Sure, there is not much weight to a dollar any more, but why is that any less democratic?

Mr. Sterling: Because I can tell you 40 per cent of the people in my riding last time voted against me. But when I was campaigning, I only counted three people in the whole riding who told me they were not going to vote for me. It is the same thing when you go in and have them sign a card. After the election I think those three people said they did vote for me, incidentally.

Mr. Peacock: I would suggest that our authorization card is a lot more democratic and explicit of the authority I, as a voter, or a worker, am conveying to my trade union representatives than the voters of Carleton-Grenville convey to you by putting an X beside your name. Because two things are said on that application card. "I designate you as my collective bargaining agent; and I hereby make application for membership in your union."

If those two statements on an application card are not clear enough about what a person is getting involved with in a very--

Mr. Mancini: You accepted the people's decision back in 1967, did you?

Mr. Sterling: Even if you had 55 per cent or whatever, then why would you not agree to a secret vote at that time, if that is the case? If you have commitment of 50 per cent, if you want to get commitment of 50 per cent, then why would you not agree to a secret ballot at that point in time? Would that be agreeable? You have it confirmed, you have it in your pocket anyway.

Mr. Munro: Who is it that wants the vote? It is the employer. I am back to what I said before. It is none of the employer's business.

Mr. Ruston: You are wrong there, sir, not (inaudible).

Mr. Munro: It is only employer's representatives who have made that case.

Mr. Mancini: It is not true. My sister is a member of a local of the UAW in Windsor, and because of certain things that had gone on in the plant where she was working, when they became unionized she felt it would have been better for her to have a secret ballot. I have other constituents who work for relatives and they want to form trade unions, but because of that particular relationship, they want the secret ballot just so things go smoothly.

These people want to join trade unions. The last thing we would want to stop is the formation of trade unions. But you also have to consider that there are many people in certain circumstances who, after the trade union is formed, ensure that their--how would you say it?

Mr. Peacock: Their loyalty to their employer is still obvious.

Mr. Munro: And if they do not want a union, they do not sign a card.

Mr. Vice-Chairman: Perhaps we can clear this up. Is there, on the application for certification, a place where the representative of the employees--can they request a vote be held no matter the number of cards they have shown? In other words, can they ask that a vote be held?

Mr. Peacock: I have never heard of such a (inaudible).

Mr. Munro: On an application card to join a union?

Mr. Vice-Chairman: No, an application for certification by employees, be it a trade union, or an in-plant organization, or whatever. Is there not on that form a place that you can request a pre-hearing vote, or a--

Mr. Munro: A pre-hearing vote, yes.

Mr. Peacock: The union asks for it.

Mr. Munro: The union can ask for it. The union can ask for a pre-hearing vote.

10:50 a.m.

Mr. Vice-Chairman: That is right, in any circumstance?

Mr. Munro: In any circumstance.

Mr. Vice-Chairman: So there are provisions that a vote can be requested by the employees' representative if the employees so desire?

Mr. Munro: That is right. And getting back to the point made by the CMA yesterday that they would accept 20-25 per cent. Sure they would. They would accept 10 per cent. Any union that applied for certification that was only able to sign up 20 per cent, would never be certified. They would never win a vote. It is nice and easy to say, "Give us a vote with 20 per cent." But if we could only sign up 20 per cent of the work force, we would be insane to apply for a vote.

Mr. Mancini: What about campaign period?

Mr. Munro: There is no campaign period when you are organizing. There is no campaign period.

Mr. Mancini: Then I must have it all mixed up, because from what I am told the way organizing goes, a certain individual goes to a group of workers and says: "I represent so-and-so. Would you like to be represented by a trade union."

Mr. Munro: Yes.

Mr. Mancini: Somebody says, "Could you please explain this to me, and what you are going to do for me?" et cetera. Then I am told that the individual explains to the workers exactly what things the union can do for that group of people collectively. Now to me that is certainly is a campaign period.

Mr. Munro: Yes, but it is not a fixed period. It becomes a period once it is over.

Mr. Mancini: No, I think you should have as much time as you need to organize it.

Mr. Munro: But unlike a political campaign, when you know when the election is and you know when the vote is, you have a period then you had better work and get it done by that time. If we were organizing an unorganized plant, we can make an application tomorrow, or next month, or the month after. So there is no fixed period.

Mr. Mancini: That is one of the benefits.

Mr. Munro: That is right.

Mr. Mancini: That is one of the benefits because you do not have a fixed time period to cut you off. Trade union organizing is an ongoing thing which has to continue to go on and on.

Mr. Munro: And if you were only able to sign up 25 per cent of the work force, do you believe that it would be in our interests to waste the board's time making an application for certification that involved a vote and put everyone to the expense of that vote when we only have 25 per cent support? We do not believe that we would be doing anyone any favour doing that.

Mr. M. Davidson: Do you not, in essence, have a fixed period under the act given that the cards are only good for a period of one year?

Mr. Munro: Yes, we have that fixed period. The cards become stale.

Mr. Mancini: You can start again.

Mr. Munro: The card becomes stale after a period. It is not a very short period.

Mr. M. Davidson: It is easy for those who have never been involved in an organizing campaign to laugh, let me assure you. If you get into a plant--

Mr. Mancini: There is nobody laughing, Mr. Davidson, and I resent you saying something like that.

Mr. M. Davidson: --of 1,300 or 1,400 employees, your time is taken up. You cannot go into the plant and organize them. It is absolutely necessary that you either meet them in small groups somewhere, or go knocking on doors. If you have 1,400 employees and try to knock on that many doors, it just is not easy.

Mr. Sterling: The area that I find objection to is you talk about the union as being the employees' representative at that point in time, and they are not.

Mr. Munro: I have never said that, sir, nor have I implied that.

Mr. Sterling: You are saying that you are going and campaigning for these people. I do not give a hoot for the union, or I do not give a hoot for the company. All I want to know is what is best for those employees.

I am having difficulty with the arguments and the rules as they are set up, in finding that it is a democratic process. Maybe what you should do is--I agree; if you could only get 25 per cent and you had tried for 100 per cent, then you would be foolish to go and try to certify that particular plant. I think that would be foolish.

But on the other hand, maybe the rules should be changed so that there would be an interim period between the time you get 25 per cent and the other to open up the employees, to let you talk to them about what, in fact, you can do for them. Likewise, the employer, or some other person, can explain to them the down sides of organization, or what another union might be able to do for them.

In other words, where does the employee really get the free choice?

Mr. Peacock: From his fellow employees, Mr. Sterling. The most successful organizing campaign a union can have is when workers of the employer come to you and say, "I want to join a

union," and you, in turn, say to them, "Are you willing to help?" If that employee says, "Yes," you then give him the constitution of the union, the leaflets, copies of collective agreements that are typical of their employer's industry, and that person goes back and sells his fellow workers. You cannot do it any other way.

Mr. Chairman: Mr. Peacock, you were interrupted in the process of going through your presentation.

Mr. Peacock: Yes.

Mr. Sterling: Sorry about that.

Mr. Chairman: Perhaps we might let him continue to go through it.

Mr. Peacock: We had anticipated we would try to deal with these one at a time.

Mr. Chairman: It is a very stimulating discussion.

Mr. Peacock: While we are in the area, the second point that we have raised deals with petitions. It is part of this representation process. Interestingly enough, it was referred to yesterday by the spokesperson for the Ontario chamber as a "festering problem," and indeed it is.

It is, as I think Mr. Mancini was referring to a situation earlier, a way in which employees make a declaration of their loyalty to the employer, and nothing else. They have made a decision. An employee who signs a petition opposing union certification has made a decision, and that decision is to side with the employer. Fair enough.

Interjection.

Mr. Peacock: No. I am saying what in our judgement a petition serves to do. It serves to divide the group of employees.

Mr. Mancini: (Inaudible) petitions.

Mr. Chairman: Could we let him get it on and then we will ask the questions?

Interjections.

Mr. Chairman: No, he is speaking to the chair. Mr. Peacock is well aware of parliamentary procedure and always addresses the chair.

Mr. Peacock: I was speaking to Mr. Mancini too.

Mr. Mancini: (Inaudible) Mr. Peacock knows that.

Mr. Chairman: I thought so.

Mr. Peacock: We have made reference to the impact petitions can have on the difficulties, the efforts to achieve a first agreement at pages seven and eight of our November 1 submission to the minister.

Moving on to point three, first agreement arbitration. Members of the committee will, of course, be aware that Bill 89 recently enacted a position for the checkoff of dues by all employees. "On the application of the trade union that such provision be included in the collective agreement."

We are not sure, as yet, whether any trend has developed in that regard to indicate employer acceptance of the requirement. The figures of the Ministry of Labour continue to show a fairly large number of strikes under way for first agreements. There were 21 as of May 6. I do not have a figure for a later date.

At the end of the fiscal year, I believe, there were 17 strikes for first agreements out of a total of 88 under way at the time. We say that the policy of trying to eliminate roadblocks to the establishment of a collective bargaining relationship may yet require vesting the board with power to settle the terms of the first collective agreement.

In two other jurisdictions at least, British Columbia and Quebec, both the checkoff and the board's power to settle the terms of a collective agreement go hand-in-hand. We have only the one policy just put in place at this in Ontario. I will pause there for any comments.

Mr. Chairman: Why don't we just try to roll right on through this?

Mr. Peacock: Our fourth submission to you is that the ban on strikes and the substitution of a compulsory, final and binding grievance arbitration system is under considerable strain, that particular policy, because of the large number of plant closings and other kinds of changes that arise from the so-called "deindustrialization process" in this province.

We are prohibited from bargaining collectively on substantial changes that occur during the term of the agreement that affect job security. All we are simply able to do is approach the employer and seek his agreement. That is why the workers at Houdaille, Tung-Sol and Bendix occupied the employers' property. They simply have no proper, regular, legal way of dealing with the employer.

They could have asked their trade union to approach the employer, open the contract and discuss the matter. The employer was under no obligation to do so. The terms had been set some time before, although in the case of Tung-Sol, they were in an open position.

Mr. Sterling: What kind of changes in the working conditions would warrant some kind of intrusion?

11 a.m.

Mr. Peacock: The introduction of new machinery, equipment processes, a substantial change in product that altered the way the work was done, relocation of the plant, reorganization of departments.

Mr. Sterling: These would all have to be pretty substantial changes. I mean that every time they brought in a new machine to do something a little more efficiently you would not necessarily ask for an intrusion would you?

Mr. Peacock: That is something the parties can work out. If the employer is willing to disclose then the parties can deal with it. If the employer is compelled to disclose then the parties can deal with the matter as to how extensive the change should be.

I have participated in negotiations over the introduction of video display terminals and word processing equipment in the newspaper industry. The employer disclosed that was coming. We knew exactly what was going to be involved. We were able to adjust the terms of the collective agreement. We did not think it was quite adequate because a lot of jobs were going to be lost and the compensation for that loss was not sufficient, but at least we were able to settle because we knew what was coming.

Mr. Chairman: Maybe the point Mr. Peacock is making here which may not be quite clear to those who do not always get their noses stuck in this stuff is that if there is a shutdown announced, and a contract in effect, there really is not anything the union can do. It is catch as catch can at that point for a number of people who are caught in that.

I know of some workers who say, quite frankly, the pension fund is not as solid as they would like it to be. It is not guaranteed, it is not ironclad and it causes some considerable problem when there is no legal recourse, there is no provision for an opener in mid-contract to go back and negotiate a shutdown or a massive change of the plant. These are occurring fairly regularly these days. It is an area where the law simply does not deal with it.

Mr. Sterling: But the whole idea of collective agreements is to keep industrial peace for a period of time.

Mr. Chairman: Yes, for a set period of time.

Mr. Sterling: So once you start intruding into it and you are too free with that intrusion then you might as well not have the contract.

Mr. Chairman: But the problem basically is not that you do openers all the time. The problem is when the whole circumstances under which you work change drastically.

Mr. Sterling: That is not what he was saying. What I said was bringing in one machine that would maybe make the place a little more efficient, maybe the loss of one job.

Mr. Chairman: I do not believe that is the type of

situation they were referring to. That is generally referred to as an opener--you want to kind of get back at the contract. But where there are dramatic changes, a shutdown is announced--

Mr. Sterling: Was that what he was saying, dramatic? Are you saying dramatic, Mr. Peacock?

Mr. Chairman: Substantial is the word that is used.

Mr. Peacock: I think you have to leave it to the parties themselves to decide what matters they are going to try to cope with through collective bargaining into the future. I do not see how we could say legislatively, or even at the normal contract renewal time, that we are going to limit the opener to the termination of 50 or more employees.

That is possible. The employer and trade union might agree to that kind of rule for limitation on the opener. But not where the matter has been unforeseen, or where the employer has refused to disclose at the time of renewal that there is a change coming like a plant closing. If it is a machine of a similar kind that is being added to the line or the assembly line layout is changed around and is more efficient, I do not think anybody would raise that.

We are definitely not saying that matters that can be adjudicated by the normal arbitration system over questions of interpretation or application of the existing agreement should be open to bargaining. We will work with that system as it now exists as it has been improved under Bill 25. But wherever the person's equity, if I can use that word, in their job is at stake--they have given long service to the employer, it may only be five years service perhaps, and that is lost by way of termination, by way of loss of advancement or opportunity--then the parties should be able to deal with that and not have to wait if there is a possibility of waiting for a year and a half or two years before the contract opens.

Mr. Sterling: But there is a third-party interest as well in collective agreements in the way the legislation is now drawn. First of all, where the province or the country benefits from industrial peace and also people who rely on particular goods being manufactured from a plant to run their plant, or the air traffic controllers, everybody who uses that service relies to some degree on industrial peace holding true for a period of time.

The illegal acts that have had to take place, like Houdaille, were for pretty extreme matters. The closing of a plant is a very extreme situation. If we leave it to the two groups to decide--if, for instance, the union is in a very strong position at one negotiating time--then we could go on forever in terms of the kinds of intrusions that could be made into the collective agreement period. I think there is a third party involved in it and that is the public.

Mr. Peacock: If I could draw your attention, Mr. Chairman and members of the committee, to the framework in the United States, the parties there are not compelled to write no-strike

clauses into their collective agreements. They are not compelled to submit their differences to final and binding arbitration. They voluntarily agree to surrender the right to strike and lockout but they reserve, as they wish, to leave the contract open for renegotiation on pace of work, production standards and auto plant changes, health and safety matters, although that tends to be less frequent with the enactment of the Welfare and Health Act, or automation--technological change. They agree to do that. The law does not force them to close their agreements to those reopeners.

I do not know what the proportion is, but I think it is in the 90 per cent mark where the parties have voluntarily agreed to bind themselves to an arbitration scheme to settle differences over an interpretation. But where they anticipate something, as they have traditionally in the automobile industry from the disputes over production standards at the start of a new model, if you leave that open you will get strikes in Lima, Ohio, or down in sundry plants in California at the beginning of the model year. It is very disruptive of production because General Motors wants those cars out in the show rooms in September and October. So it has to resolve those problems at the bargaining table with the sanction of the strike behind it.

Mr. M. Davidson: Are there not now some existing provisions made for negotiation of what I would consider are minor changes that Mr. Sterling is referring to? For example, a percentage change in an incentive rate or the introduction of a certain amount of machinery that may have a certain content of job displacement--that is already negotiated.

Mr. Peacock: If you are not bargaining in the dark, as the board put it, you can make those agreements, and they are made in a number of matters that the parties are familiar with. They know the conditions in the industry are going to be such and such so down the road they can accommodate themselves until the time for contract renewal time, or they can agree to reopen a year or two years into the contract. But if agreement is not reached that is the end of it. The employer acts as he wishes.

Mr. Sterling: You talk about the labour law and the rules surrounding the labour law in Ontario as opposed to across the border. Would you prefer their rules to ours?

Mr. Peacock: Not in toto, as you heard yesterday from the representative of the Canadian Manufacturers' Association. The kind of access that unions have in organizing drives to the employer's premises to check for membership and the posting of NLRB forms, and so on, results in delays of up to two years for a vote. But we do not have to look at the United States. The Canada Labour Code has permitted openers in regard to technological change during the term of the agreement.

Mr. Sterling: I was concerned with the competitive nature of investment in terms of business, et cetera. If there are major competitors in terms of attracting investment and a person is comparing this--

11:10 a.m.

Mr. Peacock: We have lived with this system of closing firms for two or three year's duration now since the Second World War. I think both sides have a very strong interest in preserving that stability. We are accustomed to it and the employers are accustomed to it.

All we are asking is that there be a legislative obligation imposed on the employer to reveal changes which have been decided upon or which are imminent at contract renewal time. If that is not possible because the decisions have not been made or the matter cannot be foreseen, we ask that the parties have a right to talk about it, to negotiate it and, if necessary, for workers to withdraw their labour to back that up.

You might want to look at the Westinghouse decision. Mr. Eichmanis perhaps could take you through that, because there is a very detailed discussion in the Westinghouse decision of the labour relations board about the matter of disclosure on the part of the employer. That employer was charged with failing to bargain in good faith, because following negotiations and strike it announced that it was relocating some of its operations from Hamilton to other union-free environments in Ontario.

The union had no knowledge of that at the time of negotiations. Had it had that knowledge, it would have been able to deal with it at contract renewal time. The board's orders in that matter, as seen in today's Globe and Mail, have been upheld in the court.

What we are saying is that notwithstanding the extent of the board's orders and the relief it granted to the workers at Westinghouse who were going to lose their jobs and to the trade union, which has lost its bargaining rights for those workers, we think the act has to be changed and impose a greater obligation on the employer to disclose, and to give the parties the right to bargain.

Turning to point five, which I think takes us into somewhat the same area, where an employer complains of an illegal strike and makes application to the board, the board, in its discretion--and a great deal of stress was put on this point yesterday by management representatives--can issue an order to the workers or to the union, and not necessarily one and the same in some of these situations, to cease and desist from its unlawful strike.

What we have said over and over again is that it is desirable as a matter of policy to give the board a larger role in all aspects of labour relations. You may know that prior to 1970, the employer would go to the courts, obtain an injunction against an unlawful strike, obtain that injunction ex parte, and workers would then perceive the courts to be the ally of the employer enforcing them back to work.

The employer would raise the dispute to a matter of civil disobedience and public disorder. The police would be involved. A

confrontation then arrives between the workers and the courts, and not just the workers and the employer, and I think we got into situations that you just alluded to that we do not need in our society.

The policy was changed to put that kind of injunctive power in the hands of the board. We are saying today that policy is incomplete in so far as you can still get the disastrous kind of situation that occurred at Boise Cascade where a strike has been under way for 24 months. The employer went to the board because an illegal strike began about a month or so prior to the termination date of the collective agreement. The workers paid no heed to the board's order to cease and desist.

The union was not named in the board's order, because the union had performed its obligation to advise its members that they were in breach of the act, in breach of the collective agreement, they should go back to work. They were so angry at the employer's attempt to change the working conditions that they stayed out. The employer brought to the court's attention that they were not complying with the board's order, and they were found in contempt and fines were assessed on them. That produced a very explosive atmosphere in those communities in northwestern Ontario.

There is no question that those Boise Cascade workers saw the court serving as the ally of the employer, simply to force them back to work in a manner that was not a criminal matter at all. It was a labour relations dispute and yet it was dealt with as though it was a criminal matter.

What we are saying is, give the board discretion to determine best how to enforce its orders. If people are really flouting the board's orders, by all means have the courts involved to have that reinforcement. But where there is no labour relations purpose to that kind of enforcement through the contempt power of the courts, let the board judge that.

I have tried to make clear that--

Mr. Sterling: There has got to be a bottom line somewhere--

Mr. Peacock: We will ask for it ourselves, if the employer is flouting the board's authority.

Mr. Sterling: It is nice to say that labour relations will get a resolution of the problem, but some time there has got to be a bottom line. If people do not want to pay attention to what the authorities are telling them, be it the labour relations board or the courts--I just do not know that much about the other part of it. Is that the major area where there has been a problem?

Mr. Peacock: At the time the Boise Cascade illegal strike began, the parties were either in negotiations or about to enter negotiations. So they would have been into an open period in a matter of weeks.

Mr. Sterling: Is there any way that a union can have better

control over its members? In other words, the union said, "We do not support you on this illegal strike." I presume they said that to the Boise Cascade workers.

Mr. Peacock: To be a little more exact, they pointed out that the workers were in violation of the act and their contract. They did their duty on that.

Mr. Sterling: But the union did not attempt to penalize them?

Mr. Peacock: I do not know whether that union had such power under its constitution. I do not believe there are penalty provisions in very many union constitutions over engaging in illegal strikes.

Mr. Munro: But the penalty is usually expulsion. That is the ultimate penalty within a union for any act that a member participates in that is contrary to the wellbeing of the other members, and expulsion from the union would not put them back to work.

Mr. Sterling: No, I realize that, but--

Mr. Munro: Nor would it lose their job for them if they were at work.

Mr. Sterling: The only real penalty is a financial penalty.

Mr. Peacock: The ultimate penalty is loss of your job, and that is the one the employer imposes if you break the law, and the union then has to put on its kneepads and say, "We know that those people wildcatted, but please give them back their jobs." And that happens over and over again when you get people wildcatting.

So any deterrent factor, if it is not there in the hands of the employer, it is not there because people are pretty angry and upset. They are not going to listen to the union if they are taking that kind of action. No punitive power in the hands of the union is going to have any bearing on their state of mind, if they are prepared to risk their jobs.

Continuing, Mr. Chairman, I will just draw your attention to point number six without dealing with it at any length. Our last paragraph draws attention to the considerable range of service the board offers the parties to assist them with the preparation of their cases. These include the publication of selected decisions that will guide us in the preparation of our cases before the board; the availability of field officers, which both help to gather information for the board and also to assist the parties in reaching settlements without the necessity of a hearing on many matters or issues that would arise before the board.

The board maintains its own library, which offers not only the full number of cases decided by this board, but cases from other boards, other jurisdictions in the courts and provides information to the public and to the parties. The director, the

registrar, the senior solicitor, other staff members of the board are always available to offer information to people calling in for information about what a board policy is in a certain area, what a board procedure is.

We feel that the board provides a very high standard of service in this regard. It has co-operated very substantially and directly with the trade union movement to the training of our staff to become more skilled in their advocacy before the board and their representation before the board.

We have had two workshops in the past two years, one of four days' duration. A third one is in preparation for January of next year, at which trade union representatives will hear directly from board officers about the trend in decisions, about board policies. This obviously results in reductions in delay and in speedier hearings, and in the reduction of the need for continuation of hearings. This has always been an ongoing problem in the past.

11:20 a.m.

Mr. Mancini: How many people would attend such a conference?

Mr. Peacock: The four-day conference in September 1978 had about 80 staff from a variety of unions across the province. Board chairman Carter; the Minister of Labour, who had just been appointed at that point; the then senior solicitor, Rick MacDowell; the director at that time, Stewart Saxe, all gave papers and took part in workshop discussions of board policies and procedures. I think that goes not only towards the board maintaining its standards, it goes to the maintenance and enhancement of the standards our own people bring to the board in their role as representatives.

One of the things the board has managed to convey to us rather well is the section 60 duty to represent workers in a manner that is not arbitrary, discriminatory or--unfair?

Miss O'Regan: Bad faith.

Mr. Peacock: In bad faith. I think again the record there is very good. We refer to the numbers in our submission of November 1 to the minister. I think that record had a great deal to do with the Legislature's decision to grant the checkoff. In hundreds and hundreds of cases of complaints since 1971-72, I believe, or 1970, when that provision was enacted up to the point in time when we made our brief only 13 complaints had been upheld by the board where unions had failed to give proper representation to their employees.

Mr. Chairman: Mr. Peacock, the staff has prepared some general questions which focus on the nature of this series of investigations. We wanted to know particularly about the procedures which the board uses.

In other representations which have been made to the committee some people, notably, I guess, the Labour Relations

Bureau yesterday, said that they were most unhappy with the kinds of procedures that were used, that in a sense they were not legal enough, that the people who were chairing the board or acting as vice-chairman should in essence be the equivalent of a Supreme Court justice.

I would like to elicit your point of view on whether in general you feel the board itself and its procedures should tend to be far more legal in nature than it is now or whether there is some value, from your perspective, of retaining the current aspects of that or changing it. In other words, do we really want another court system and would that be advantageous to you or to the other side or just be generally a better way to go about the board's business?

Mr. Peacock: We absolutely do not want anything to do with a return to the court system. I cannot be any more categorical about it than that. Your background paper correctly sets out the failure of the court system in the early post-war period, total failure of the court system to deal with labour relations matters. Contrary to what was suggested to you yesterday, justices of the Supreme Court of Ontario, or any other bench, do not have the expertise to deal with labour relations matters.

I can tell you about our unhappiness with the appointment of a former justice of the Supreme Court to inquire into our system of grievance arbitration in this province. We were not at all happy with the result of that inquiry because that former justice did not, in our view, understand the system.

Mr. Chairman: Part of what we have been asking other people--and I will ask you as well, you picked up on it in your presentation this morning--is the matter of the procedures, particularly those surrounding how to get certified and how to start up the process of organizing. A number of suggestions have been made to the committee that something as sacrosanct as the secret ballot should be used--surely we are all in favour of that--and if you went to a secret ballot you would be able to substantially drop the percentage of people who had signed a card.

When I was thinking about that last night it struck me that if I were on the company side of the argument I would be quite happy to have a secret ballot when you people had signed up five per cent of the membership. As a matter of fact, I would not like to see it go over much more than 20 per cent because at that point, like in any election, I would have a poll which shows me that 20 or 25 per cent of the population out there is voting one way and that is when I want to have the election. If I wanted the vote 75 per cent in my favour I really do not care whether 25 per cent vote the other way, I have got them three to one.

Could you elaborate for members of the committee your feelings on the certification process a little more than you did? Do you have objections to the concept of secret ballot, how do you feel about the percentages and whether the number of cards should be raised, lowered, whatever?

Mr. Peacock: I think we have covered a portion of your

question, Mr. Chairman. Certainly we have called for a reduction in the percentage to 50 per cent. Evidence of 50 per cent of the employees eligible within a bargaining unit who have signed application cards and paid their dollar would be sufficient. We have made that submission.

We do not think there is any necessity for going the route of Nova Scotia to have a vote on every application. The record, we think, speaks for itself in Ontario as to the validity of union membership evidence before this board.

Mr. Mancini: Can I ask a question about the Nova Scotia experience? Are you very much aware of what has happened there as far as the secret ballots are concerned? Have you found it negative?

Mr. Peacock: I can tell you that the secret ballots cast by the Michelin workers have never been counted in Nova Scotia.

Mr. Mancini: No. I am aware of that particular problem, we are aware that there may be some political reasons why that has happened in Nova Scotia. My question, Mr. Peacock, is if you are aware of the secret ballot having any negative effect on trade union organizing in the province of Nova Scotia.

For example, do you have any kind of list to say they have had so many secret ballots and evidently there have been only so many locals organized? Do you have anything like that at all?

Mr. Peacock: At this point I could make only the general comment that the Nova Scotia Federation of Labour now regrets very much having agreed to set the secret ballot in every certification. I could certainly undertake to provide for you any submissions that the federation has made there to the government of Nova Scotia asking for changes in that procedure.

Mr. Mancini: If we could have some statistical information it would help us.

Mr. Peacock: Again we could get you the annual reports of that board, I am sure.

Mr. Chairman: The only thing that I have seen in common about the certification processes is that both sides seem to agree that there remain serious problems in the whole matter of how one goes about accepting or organizing a bargaining unit. You pointed out some areas that are causing some problems and the other side of the coin was represented yesterday and they certainly presented some areas where they felt there were problems.

In summary, is it really the procedures, the act or the activities of the board which are causing these problems? Because it does seem apparent now that it is no easier, no less rancorous, that no really smooth way has been found to deal with the matter of how one goes about the process of certifying a bargaining unit, identifying whether the people in a workplace want to or will do it.

A good deal of the discussion from both the Labour Relations Bureau yesterday and yourselves this morning has dealt with kind of the fine line of the thing, that nobody seems to object if either side wants to provide information or education to people in a work place, but there seems to be a considerable amount of noneducational activity, if I might put it that way, that still goes on. There still appears to be from both sides some practices which they think is unfair.

I am not sure that the committee is particularly interested in expediting the process, although that would seem to be a reasonable expectation. What the committee is searching for is some fair way, without undue practices happening on either side of the coin, to get the process done, get it accomplished.

Mr. Munro: Mr. Chairman, if I may, I think the thing that creates most dissension, creates an atmosphere that is not conducive to good industrial relations or the continuity of a relationship that is an honest and fair and reasonable one, is the petition situation where, after an application for certification is made, there is a time period during which either employees or the employer can make submissions to the board.

The employer is required by a terminal date to provide certain materials and information to the board to enable it to judge the cards and determine the size of the unit and its composition. The employees are advised on form five, which is posted on the notice board within the premises, that they can raise objection if they so choose to the application that is before the board.

11:30 a.m.

There is a great, heavy and long-lasting feeling among the trade union movement that the employer, or his agencies, encourage petitions. They have been orchestrated in such a way that any reasonable analysis of the cases that the board has held will show a consistent approach to how these things are handled. There may even be a fairly consistent handful of lawyers who represent groups of employees who have no connection with one another, but they always manage to find the same representation within the legal profession when it comes to a hearing.

If there is anything that creates an adversarial climate it is petitions. What we would ask is that the terminal date be the application date. This is how it is federally. There are no petitions within the Canada Labour Relations Board's cases. If you sign a card you are saying you want a union. If you have not signed a card you are really saying you do not want a union.

The existence of petitions encourages employers to do things that they ought not to do. It encourages them to interfere with their employees' right to join a union of their choice. It ceases to be their only choice. It is in the employer's interest not to have a union.

And if you look at the cases where there have been petitions you will find that in these instances, even if the union is

certified, these are the bargaining relationships that are bad relationships. You have the start of a division within the work force, those that want and those that do not want, and they are identified by coming forward as being opposed to the union. So, within the work force, there is the start of dissention. The employer knows who it is that he can quietly talk to to encourage and inflame that dissention.

If I could point to one thing that could improve the whole industrial relations climate in this province and make it easier for the Ontario Labour Relations Board to perform its function, because all of the problems created come back to that board for resolution, it would be to change the terminal date to the date of the application for certification. It does not require a legislative change. It is a part of the regulations. It is the procedures of the board. So if any one thing could be done it should be that, and we would have a much healthier and much more stable industrial relations climate in this province.

Mr. Chairman: No one has suggested, from either side, any more direct intervention in that certification process, yet a lot of the disputes seem to centre around things which do not officially happen. Then someone makes an allegation and attempts to prove that it actually did happen, that there was some form of harassment, that somebody did get threatened with loss of job.

There is not a typewritten sheet announcing or posted anywhere that "if you people form a union we will shut this plant," but the rumour machine goes to work and certain things are said, and outside the work place and inside the work place little things go on. Then the process of trying to detect whether that was an unreasonable thing for an employer to do, or for a union to do, seems an awkward one because you seem unable to get the real facts of the matter out.

I have not heard any suggestion from either side who might appear before the board to try to deal with that part of the problem. Can you think of anything which might?

Mr. Peacock: (Inaudible) decision in section 79, complaints, brought through an organizing body, if you have got a complaint hanging before the board and a hearing is taking place on your application, a petition's going around, and you do not have a decision reinstating that worker whom you allege has been fired for union activity, you do not get any compensating effect among your constituency. There is no reassurance that in fact there is a protection for the exercise of the right to choose a trade union.

That is why we have to come back to this proposition in our first point. The only real remedy for the violation of the rights of a worker who is exercising a choice to belong to the union is reinstatement immediately because, otherwise, the other people will say: "Oh, he got fired and we do not know if he is going to get his job back. I have to vote for whether I want a union in two day's time, and the board has not decided that question."

Mr. Sterling: I do not understand the argument about the

termination date, about the cutoff time. Could you just go through the procedure as to how it affects them?

Mr. Munro: If we make an application for certification and submit it to the board today, the registrar receives that and has certain things that he must do, one of which is to determine a terminal date by which all particulars, forms and objections have to be back in to the board.

That terminal date allows the employer to talk to his employees against the union, do whatever he might wish to do to encourage a group of employees to object to the union. Remember he has them at work every day. The union has to go out at night looking for them. So what we are suggesting is for that terminal date to be made the day of the application.

There is still information the employer can send in and, incidentally, if the employer does not send it in by the terminal date there is no penalty. But it encourages interference with the free choice of the employees to join a union of their choice and that interference usually comes in the form of a petition submitted to the board.

That petition, before the board even hears the case, has clearly separated one part of the work force off from the other. They are identifiably separated. What I am saying is that the thought that there is the possibility for a petition creates an unhealthy climate for industrial relations purposes from then on. If there is any one thing, in my view, that is contrary to good industrial relations and creates a bad climate in Ontario it is that. It starts the relationship off wrong.

If you take an analogy of marriage, you have a courtship before you get married. When you are married the priest or the minister turns his back on you. You are off on your own to make of it what you can. You are supposed to have had a courtship before you come to him.

The courtship in industrial relations is after you leave the board and, incidentally, the board too turns its back on you once you are certified. You may come back to the ministry for conciliation if you are unable to get a collective agreement, but that is persuasive. There is nothing that is mandatory at the moment.

We do not have the imposition of a first agreement. If we had the imposition of a first agreement the courtship would be that first year. The employer has a union to deal with if they are certified. They know nothing of one another. Each have been talking to these employees over here. If there is no opportunity for the relationship to mature and become a good relationship, you are going to have a continued existence of bad relationships in many of these new units.

You seldom get that in a unit that has a second, third and fourth agreement. But if you never get a first one you sure will not get a second one. If you are going to have a good first relationship it should not start with the work force being

divided. That is what the petitions do, Mr. Chairman.

Mr. Chairman: Part of your observations go to the third question which we did on our research about the powers of the board. This was discussed yesterday at some length and I would like to get your comments on it again today.

11:40 a.m.

You tended, in your submission, to support the concept that the board in fact ought to be expanded in its powers; there really is very little place for the courts to intervene; that you should attempt to retain the labour relations board as being the agency which deals with labour matters.

You went on at some length about Boise Cascade Corporation and the role of police officers in that. I think the members are well aware that within the last couple of years there have been some very dramatic instances where the police have been involved in labour disputes. I believe the consensus is that it is a very messy piece of business and no one on any side of this House is very happy with the role that it has played.

Will you elaborate for us a bit more on why you are strongly in favour of retaining this jurisdiction and expanding these powers with the board as opposed to the court?

Mr. Peacock: Mr. Chairman, I think that is best described in the second column of the second page of this yellow document that has been circulated to you. We have contrasted there the approach that has been taken in British Columbia with that of Ontario.

Simply put, in BC the board has a very comprehensive jurisdiction which is virtually totally protected from the interference of the courts except in the matters of excessive jurisdiction and the denial of natural justice. The BC board, for instance, will hear complaints about not just unlawful strikes but unlawful picketing and unlawful picketing of other employers that the union feels are allies of the struck employer, a so-called secondary boycott.

These questions are not dealt with by the labour relations board in Ontario and they wind up in the courts. That is one instance we would like to see brought within the jurisdiction of the board.

We have already mentioned the question of enforcement. We want the board vested with much greater latitude as to how it can achieve the labour relations results and get rid of the punitive aspect of this thing. If someone is in breach of the Criminal Code, we are not saying we are going to exclude the courts there and let the labour board deal with that. We are talking about labour relations disputes as such.

We think a very great advance has been achieved in that regard in BC. It has been described in a number of papers; Professor Weiler's career there has been written up in the Toronto

Globe and Mail. The chairman of the Ontario Labour Relations Board, Mr. Adams, has discussed it recently in a paper given in Montreal, which again I might suggest your committee should take a look at because it is a very good overview of the developments in labour relations policy across Canada. It is footnoted on page seven of the text of our submission and refers to what has been happening in British Columbia as well as in other jurisdictions.

If you find yourself having to go to the different agencies and boards, at this time the courts and other times the minister on some other matter, you lose the consistency of policy.

One of the things you can look to from the labour relations board is consistency of policy. You know where it stands on the various issues. If you are dealing with the Workmen's Compensation Board, that board does not write up and release its decisions so you cannot tell from one fact situation to another what the policy is going to be by going to a library and looking up the decisions. So we do not have as much comprehensiveness; we do not have as much consistency throughout the whole labour relations scheme because the board lacks jurisdiction in those areas.

Mr. Chairman: One final question: The matter of outside intervention in various forms has not really been touched upon by very many people here and I take it most feel that the labour relations board is not the body to go to if you feel, for example, that someone is using a private corporation as a strike-breaking agency or that the role of the police is not being clearly defined.

All members are aware that on a number of occasions we have had substantial expenditures of public funds to provide for police services in a labour dispute and it is an awkward thing. Police officers are very unhappy with the role in which they are cast. The people who are attempting to organize or might become members of a bargaining unit are certainly unhappy with it.

I am not certain though why the labour relations board has not been called to attempt to deal with that, or at least to point out to the Legislature that there are some things which do not seem to quite fit.

For example, the law says that police officers must provide reasonable access to the plant, even though there is a labour dispute on, legal or otherwise. That seems to be applied in different ways in different circumstances. Would it be a sensible notion to suggest that where a union, attempting to organize or in the process of attempting to negotiate had a legal strike under way, if they felt there was an unwise or unfair use of police forces in the area should you then be able to go to the labour relations board and seek redress?

Mr. Peacock: I think legislation is what is required there, Mr. Chairman. Quebec has enacted a prohibition against the use by the employer of his own employees or any other strike replacements during a lawful strike. The tribunal in Quebec decides when an essential service should not be interrupted by a strike. The board in BC has a similar function in regard to lawful strikes,

declaring where an essential service should be insulated from a strike.

The way to get rid of the police from confrontation with picketers is to have the legislative prohibition of the employers using strike replacements during a lawful strike. That is it. I do not think it is a matter of discretion for the board. You need the legislative authority to do that and once you have it, just as we have reduced the number of confrontations between courts and unions over injunctions through giving the board the cease and desist power, I think you will find a great reduction in confrontations between police and strikers by enacting a legislative ban on the use of strike replacements by the employer.

Mr. Chairman: Mr. Peacock, we thank you and your delegation for coming before us. If you have other questions or if you have notations you would like the committee to be aware of before we write that report, please feel free to contact us.

One small point for the members of the committee, we do have one other delegation to fit in and I am seeking your direction on this. Mr. Lloyd from the building trades council has told us that he will make himself available or a delegation available at two this afternoon. Do you want to hear them at two or do you want to hear from the board and then try to fit them in afterwards? What is your pleasure?

I take it that Mr. Lloyd's presentation will not be a lengthy one. I am aware that they do not have a written brief, they want to come in and say some things and then get out, so it might be possible to squeeze them in first. That is the last of the delegations before we entertain comments from the board.

Mr. Sterling: My only problem is that I am going to be leaving at four o'clock this afternoon, Mr. Chairman. I would prefer to have the board on before the other one.

Mr. Chairman: I think Mr. Lloyd would be amenable to the notion that you give him a time frame of 15 or 20 minutes. Could we inform him that we will hear him at two and then about 2:20 we will hear from the board?

Mr. Ruston: If we start at two sharp.

Mr. Chairman: Okay, I will try to be here at two sharp; I will do my utmost.

The committee stands adjourned until two.

The committee recessed at 11:50 a.m.

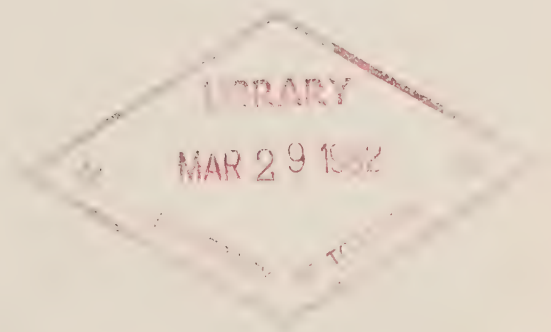
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STANDING COMMITTEE ON PROCEDURAL AFFAIRS
REVIEW OF ONTARIO LABOUR RELATIONS BOARD
THURSDAY, SEPTEMBER 25, 1980
Afternoon sitting



STANDING COMMITTEE ON PROCEDURAL AFFAIRS

CHAIRMAN: Breaugh, M. (Oshawa NDP)
VICE-CHAIRMAN: Davidson, M. (Cambridge NDP)
Charlton, B. (Hamilton Mountain, NDP)
Kennedy, R.D. (Mississauga South PC)
Mancini, R. (Essex South L)
Rowe, R.D. (Northumberland PC)
Ruston, R.F. (Essex North L)
Sterling, N.W. (Carleton-Grenville PC)

Research Officer: Eichmanis, J.
Clerk: White, G.

From the Ministry of Labour:
Armstrong, T.E., Deputy Minister

Witnesses:
Johnson, J., Business Manager, Toronto-Central Ontario
Building and Construction Trades Council

From the Ontario Labour Relations Board:
Adams, G., Chairman
Aynsley, D.K., Registrar
Burkett, K.M., Alternate Chairman
Freedman, H., Solicitor to Board
Meslin, E., Chief, Program Development

LEGISLATURE OF ONTARIO

STANDING COMMITTEE ON PROCEDURAL AFFAIRS

THURSDAY, SEPTEMBER 25, 1980

The committee resumed at 2:05 p.m. in committee room No. 2

REVIEW OF ONTARIO LABOUR RELATIONS BOARD
(continued)

Mr. Chairman: The meeting will come to order.

Mr. Johnson, we have adopted the practice this time of having witnesses swear an oath. It really doesn't have much to do with anything except that the testimony is being taken under oath and we have a little procedural problem about the status of witnesses before committees. Don't let it bother you.

J. A. Johnson, sworn.

Mr. J. A. Johnson: Mr. Chairman, members of the committee, I will be very brief. I just had a couple of notes handed to me about 15 minutes ago by my assistant so I have not really prepared anything. I am going to highlight a couple of matters. I might say, unfortunately we did not receive notice of this committee receiving testimony or representations earlier. If we had maybe we could have been better prepared.

I would like to state, however, that the Ontario Labour Relations Board at this time, in particular with the present chairman of the OLRB, our council, which is the Toronto and Central Ontario Building Trades Council, does represent 32 construction unions with a membership of 50,000 construction workers. Also, in Ontario I would think approximately 75 per cent of the construction case load is with the Ontario Labour Relations Board, so we are very much involved with the board and its proceedings.

As I started to say earlier: The present chairman, in our view from the council, is one who we have welcomed and had need of for many years in that we felt the choice of chairmen in the Ontario Labour Relations Board caused us great concern. We do feel right now that Mr. George Adams, from our point of view at least, has shown much impartiality, which is obviously needed from a chairman's point of view. In our estimation he is doing a job that has to be recognized as being one that is serving the public on an impartial basis.

Mr. Sterling: Do you have any trouble with the vice-chairmen at all? We have heard earlier testimony that there was a feeling they were not properly experienced, perhaps were a little wet behind the ears.

Mr. M. Davidson: That is putting it mildly.

Mr. J. A. Johnson: It could be said, I guess, that none of us is ever dry behind the ears completely, regardless of what

stage in life we reach. In general, the vice-chairman of the Ontario Labour Relations Board has been doing a fairly good job.

In every system there are undoubtedly weak areas. I suppose there are in some of the vice-chairmen, possibly the new ones, but in the main the majority of the vice-chairmen of the Ontario Labour Relations Board have been there for many years and are well respected by both labour and management. I obviously would not have any part in the actual selection process of vice-chairmen, or expect to; it is a government decision, a Ministry of Labour decision. I believe they do a fair job in selecting their vice-chairmen.

What I have concern over is the selection of some of the side people, the actual panel members. In the construction industry, as I said earlier, in dealing with the heavy case load, particularly in our area, we find that we undoubtedly do not have enough construction panels and side panel members from the construction industry, both labour and management. It is very difficult and frustrating for us when we appear before a panel of the Ontario Labour Relations Board and are faced with people who are not familiar with the construction industry. I am sure people appearing from the industrial sector would have the same frustration if they were looking at somebody sitting there from construction. So I do believe there is a need indeed for an increased number of construction panels for the construction case load.

The main area that gives us a lot of concern is that legislation that is being passed from time to time, in most recent times legislation in the form of Bill 204, really does not allow the Ontario Labour Relations Board a fair opportunity to adjudicate in that legislation because the legislation itself is so screwed up that it is virtually impossible for anybody to interpret it. I have no hesitation in offering criticism in that particular area back to the Legislature itself.

The area that gives us the greatest concern of all is the time element at the Ontario Labour Relations Board. I would just like to give you an illustration of a case in point. I will give you a little bit of history.

Back in March 1974, in my capacity as the business representative of our council, I signed our council type of agreement with a general contractor, named Napev Construction. Some time after that--if I remember correctly it was in January or February of 1975--we started a grievance procedure under section 112(a) of the act with Napev Construction, dealing with violation of agreement.

We have been at the board on an almost continuous basis since 1975 with that particular company. There have been, prior to now, six previous cases where Napev Construction has been found in violation of the agreement and the cases have come to a head after some lengthy proceedings. We are still back there today with the seventh case and possibly going back shortly with an eighth case. The frustrating part of that is that it seems you have to continue repeating the process of adjudicating the same issue.

I am not completely familiar with law as it is supposed to be administered, but it seems to me that when enough precedent is set they should not have to continue sitting on the same type of case over and over again. There should be a binding order given by the board.

I believe what is necessary in a case is that the board have a power similar to that of the courts to be able to do that. I think the problem is that the board just keeps on adjudicating the same issue and coming up with almost the same decision, but they cannot bind, as the courts can, an order on Napev Construction, for instance, to cease violating the collective agreement over and over again.

We have now had section 112(a) of the Labour Relations Act restructured, which provides an opportunity to give swift adjudication to grievances in the construction industries specifically. When you file a grievance under section 112(a), the act says you have a hearing before the board within 14 days. It has been pretty successful in that I think to date approximately 75 to 80 per cent of the cases do not go before the board because they are settled at a labour relations officer's level before it gets to the full board. That has been very beneficial. That 14 days is a comfortable deadline for the parties to get together and get their problems straightened out without actually going to the board.

The unfortunate thing is that once they go to the board the 14 days really has no relevance. We have one particular case going now that has been there since June of last year I believe. The problem with filing a grievance in the construction industry--the unions in the construction industry do not file a lot of grievances; I think we are rather moderate in filing grievances per se--but when you file a grievance in the construction industry that a contractor has violated the agreement on a construction site, it is not like he was established in a plant and he was going to be there for the next 50 years or even 10. In today's life he may be here today and gone tomorrow, but generally speaking he is there for many years.

In the construction industry the construction sites may last only for a few weeks. Only the very lengthy ones last in a general sense more than a six months or so.

Mr. Sterling: Is that a normal occurrence or is that an exception that you are talking about? I do not care what system you set up, it is not going to be perfect.

Mr. J.A. Johnson: I realize that.

2:20 p.m.

Mr. Sterling: The other thing I often hear in terms of the court system is that it is too slow and all the rest of it. Often when you investigate it it is the parties themselves or the parties' representatives that are stalling the hearing because they want more time to prepare themselves, et cetera. That is not the case here, is it?

Mr. J.A. Johnson: Yes, you are getting to the exact point. You have reached it long before I was going to.

I believe that when the Ontario Labour Relations Board was initially set up the intent of the system was to allow disputing parties to come before that body as lay people to present their case and expect to be heard and have swift adjudication of matters, especially on construction work where, as I said earlier, if you file a grievance the respondent has normally moved out of town before you get it to the board. If it is stalled he is gone for sure.

I just think that the Ontario Labour Relations Board has been taken over completely by the legal profession. They spend days on end, very costly days to both labour and management, in preliminary arguments, objections and technicalities. You get into a situation where you have two or three days of that and the board has to adjourn to a later date because they have other hearings on, and on and on it goes. I think it is overly legalistic. It has gone far beyond where it was meant to be when it was originally structured.

Mr. Mancini: That's typical of the legal profession.

Mr. Sterling: But sometimes the decisions become important in terms of economics. We had the opposite argument placed before us yesterday. When you are making decisions which have the impact of maybe half a million dollars or something of that nature, how can you deny representation or a legal process which is fairly formal?

Do you think there should be two different processes, that for a grievance perhaps there should be process A?

Mr. J.A. Johnson: I suppose you could look at it in that light. When you say decisions involving half a million dollars, I can assure you that if the proper research were done you would find that the greatest cost in any hearing of a grievance in the construction industry, in all but a few cases, would be the legal fees because grievances in the construction industry just never get into that type of figure, half a million dollars. I have never heard of it, just absolutely never heard of it.

Mr. Sterling: No, I was talking about another area.

Mr. J.A. Johnson: You are generally talking of settling for a few thousand dollars, and by the time it goes before the full board and you get around to settling for a few thousand dollars, the lawyer's bill has reached somewhere around \$10,000.

With respect to the legal profession, when you get into a difficult, complex situation you should have the option of being able to use your lawyer, labour or management. But I feel the simplest cases that are taken before the board are just really dragged out for too long. When we get into legal arguments, the preliminary arguments generally take longer than the case itself.

Mr. Sterling: Would you be willing to go to an employer and

say: "This is a matter of \$500,000. We will walk in and forget about hiring the legal guns"? Have you ever approached it that way?

Mr. J.A. Johnson: No. I would think that 80 to 90 per cent of the construction grievances are settled with management. They never go to the board; they are never filed.

Our normal procedure is to send a letter to an employer or his contractors' association. In most cases our affiliated unions do it. They meet first. Then, if there is no settlement, it goes to the Ontario Labour Relations Board under section 112(a).

Mr. Sterling: I just do not know how you get rid of the problem, quite frankly. I am a lawyer myself but I do not think lawyers want to be involved in something where their expenses are in fact greater than what the matter they are discussing really is worth.

Mr. J.A. Johnson: It is kind of difficult for me as a nonlegal person to suggest a remedy to it, but there is undoubtedly a problem.

Mr. Chairman: If you have the points you want to make I would like to pursue a couple of lines with you, but I want to give you the opportunity to say whatever it is you would like to put before the committee.

Mr. J.A. Johnson: If you can ask a couple of questions, there are a couple of points that I could possibly put.

Mr. Chairman: The work of the committee essentially is to look at the board as an agency of the government to see whether it is functioning to meet a need as it was originally set up under the act, to see whether there are procedures which could be changed, to see whether it is working well, and in this instance to see whether those people who appear regularly before the board feel that it serves the purpose and is working reasonably well. I want to pursue a couple of points which you have brought up that other people appearing before the committee have mentioned as well.

Would it be a sensible proposition for this committee, in making its recommendations to the House, to discuss the matter and perhaps make some recommendations regarding other people who sit on the board other than the chairman or the vice-chairman? In other words, the university faculty associations yesterday pointed out that they often go to hearings where there is really no one sitting up there who has an understanding of their work situation.

You said again today that you often go to hearings where there really is someone there who in essence is prepared to hear, to listen, to question the union side of the argument but they may come from an industrial trade union, which is a far different kind of a work place than your people work in.

Would it be a sensible recommendation then to suggest that the board begin to consider a slightly more sophisticated system of allocating the appointments to the board so that it would

reflect the kind of representation from all different kinds of workplaces or is that too complicated? Is this board large enough to make that kind of a recommendation?

Mr. J.A. Johnson: I think the selection of the nonchairman persons should be looked at closely. It is terribly frustrating when you sit down and you are presenting a case, or in most cases today you have your lawyer do it--you do not go in there without him because there are 10 other lawyers ready to meet you, and that is not over-exaggerating; that happens too often--but you look up there and the chairman is sitting there and it could be any number of chairmen who have been there for many years, or vice-chairmen, that you have confidence in. The two side people are sitting there and looking from labour's point of view; you may have somebody there from others in the construction industry who is not familiar, from labour side or management side you could have the same thing.

When you notice, as I think we are all aware, the labour relations board operates without recording services and they take it in longhand, shorthand, whatever they do, each person is responsible to take his own notes, and you notice that the two side people have just quit taking notes and you have to sit back and think, "I guess this management fellow has already decided he is against me," and hopefully your labour person is with you.

To me that is not the way it should be, obviously, but that happens on a regular basis. It always frightens me when I am sitting at the board and I watch either one side or the other, or both of them, just quit writing.

Mr. Chairman: They just give up on it.

Mr. J.A. Johnson: At that point in time I honestly think that they should just disappear and you talk to the chairman, because it seems to me that he is the only one who is paying attention at that point in time.

Mr. Sterling: Maybe the two side fellows have heard enough from the lawyers at that point in time.

Mr. J.A. Johnson: That is the problem, though, they are probably so pissed off--excuse my language--listening to the lawyers that they do not get down to the facts.

Mr. Chairman: Another precedent set.

The matter of repeated offenders is one which has been mentioned, I guess, by both management and union people. Can you think of a device which would expedite the matter, to be fair I guess people from either management or labour, who consistently violate the act? In other words, from your side of the coin alone, can you make a suggestion which the committee might think about in terms of trying to identify repeated offenders and trying to sort this out of the process?

Mr. J.A. Johnson: I do not know that I could suggest a process. I gave you a case in point.

Do you say after the contractor has been now found guilty of a violation of a collective agreement the second, third, fourth, fifth or sixth time, at what time do you say he has violated enough? There has to be something to keep him in line where, on the other hand, if it is a union it is for them to toe the line if they are repeatedly putting in the same type of grievance that is frivolous from the start. The board, obviously, should be able to draw some lines there.

2:30 p.m.

Mr. Chairman: The point I am trying to make is that in other aspects of the law, if someone commits a first offence, the law generally takes a rather lenient view of that. But it does make distinctions about appearing a second time for doing the same thing.

Mr. J.A. Johnson: Do you mean penaltywise?

Mr. Chairman: Yes.

Mr. J.A. Johnson: Sanctions, yes. I suppose that is probably the only answer.

Mr. Chairman: So if we were to consider recommendations it would be at the sanctions end of the process. Aside from that, it is simply to get the cases heard and deal with them as quickly as you can.

Mr. J.A. Johnson: We have been frustrated to the extent, with this particular case, the Napev Construction case, that section 112(a) of the Ontario Labour Relations Act that was set up to expedite grievances and matters in the construction industry because of the mobility of the construction industry, the way it moves around, here today and gone tomorrow sort of thing, was set up to do that because there were a hell of a lot of problems in the field because we reverted to closing the job down because of the lengthy process.

The process has now, and particularly in repeat cases like this, come to a point where we are back at day one and we are frustrated to the extent that it is being contemplated that we may have to go back to our old ways. That is not a wish that we want to follow through with. We would like to be able to use the Ontario Labour Relations Board to expedite matters of this nature. But if it is going to continue the way it is going we may just have to sidestep that process and revert to the jungle.

Mr. Chairman: The matter of delays has been discussed by a number of people. You pointed out something which is unique to your own sector and that is where, in an industrial trade union, the possibility exists that two years from now if the grievance is heard at that time, the plant will still be there, the work force will still be in place, and although there has been a long delay the two parties are still essentially the same entities as when you began the argument.

In your work situation that would be unusual to have a plant under construction, or whatever it might be under construction, for that length of time. Is it at a point where the committee ought to be thinking about making some recommendations which would, in some way, compensate for that? In other words, say, when a hearing is to be held on something dealing with the construction trade there was a need to hold that hearing while that construction project is still under way or, failing that, within a 60-day or 90-day period.

Mr. J.A. Johnson: I think it is difficult to put a time on it when you are talking about a 30- or 90-day period. I believe that when the board is dealing with a construction case because of the nature of the construction industry that it should be seized with the responsibility of seeing that particular case through at its earliest time.

Mr. Chairman: So the recommendation, if we were to consider it, would probably be more sensible if it simply said to expedite, to give priority, to try to hear this as quickly as possible, that kind of thing.

Mr. J.A. Johnson: I believe the main reason why that particular board, as I said earlier, that panel does not sit on a continuing basis is because they have other cases. Again, it goes back to my earlier statement when I said that I felt there should be additional construction panels because of the case load in that particular area, not just in construction but it is fair to say in other areas, other industries. The board should be looking at its case load and constructing its panels based on its case load. I do not know if that is what is happening right now.

Mr. Chairman: There is one final question from me. I am interested in the comments made by a number of different parties here about the legalistic nature of the board and the role that lawyers do play.

I notice that your opinions on the matter were rather different from the opinions that we heard yesterday. Are you concerned that the board in its nature, in the way that it actually hears cases before it, has reached the point where people from unions, workers in the work place, feel that for all intents and purposes they have arrived at a court? Because that was not intended to be the nature of the board.

Mr. J.A. Johnson: No, no. From looking to the panel itself?

Mr. Chairman: Yes.

Mr. J.A. Johnson: No, I do not lay the blame on the panel. It is back here at the table where the lawyers are sitting. I find, with few exceptions, I cannot really recall a vice-chairman making it so difficult for the lawyers that they have to get into very technical lengthy arguments.

The chairman of that particular panel normally does his best to help you. If you are there without a lawyer they always do, and

when there are lawyers there I believe they do a very good job in trying to steer them in the right direction where they do not get into difficult or lengthy arguments. But it is always on the insistence that each lawyer put his case forth in detail and when the detail goes on for hours I believe, without necessarily criticizing some of the chairmen, they feel like falling asleep as well as the side people at times.

Mr. Chairman: So from your point of view, and to meet your needs, your people feel very comfortable with the way the board conducts its business. If anything, we should resist the attempt that is being put forward by some quarters to make it into a more formal and more formally legal process.

Mr. J.A. Johnson: The only problem is if you make the board as formally legal as the lawyers sitting around then I think you may just as well park it because it will lose the usefulness that it has now. You will never get a decision out of the board. We have legal arguments forever and a day.

Mr. Chairman: Are there any further questions?

Mr. Sterling: Is it possible to quantify a grievance? In other words, in Quebec their small claims court system is such that you cannot bring a lawyer into the small claims court. You just cannot do it. But you can put a monetary limit on that kind of a claim, say it is \$1,000 or whatever.

Is there any way you can quantify a grievance in terms of saying it is a minor grievance, the minor grievance being such and such or such and such, then there are no lawyers allowed in the room?

Mr. J.A. Johnson: Right now I believe you are doing that very effectively, but the unfortunate thing not for the other industries, it is only for the construction industry, through the labour relations officer. I do not know the percentage off the top of my head, but I believe that 75 per cent to 80 per cent of the cases are actually resolved by the parties sitting with the labour relations officer or he acting as a mediator back and forth with the parties and drawing it to an amicable conclusion of both parties. So, in a way, I suppose you are doing that now to a great degree.

The labour relations officers are doing an excellent job, there is no doubt about it. Without them the case load of the board would be impossible to handle and at the rate they are handling them now with the drawn-out proceedings and legalistic wrangling and arguments, I would not want to imagine what would happen.

The system right now provides--I think it is fair to say that in most cases that go before the board they are fairly serious.

Mr. Chairman: Are there any further questions?

Mr. Johnson, we thank you for appearing before us today. If

we have any matters that our research department would like to get hold of you on I hope you will allow him the opportunity to have a little chat with you. If you have anything that you would like to put before the committee feel free to do so.

Mr. J.A. Johnson: Thank you very much.

Mr. Chairman: The next witnesses before the committee are from the Ontario Labour Relations Board. Mr. George Adams is the chairman of the board.

Mr. Adams, I am going to ask you to introduce the people that are here to provide evidence to the committee today. I understand you have been made familiar with the process of swearing in. I am going to use the same format I used before.

I will ask the clerk to swear you in and then as you introduce each of the people who are going to testify we will dispense with that matter.

2:40 p.m.

G. Adams, sworn.

Mr. Chairman: Would you introduce the other members who are going to testify, please?

Mr. Adams: I will, Mr. Chairman, as soon as I unload my briefcase.

On my immediate left is the alternate chairman, Kevin Burkett. On his left is the registrar and chief administrative officer, Don Aynsley. On his left is the board's senior solicitor, Harvey Freedman. On my immediate right is Mrs. Elinor Meslin, chief of program development of the Ontario Labour Relations Board.

I wonder if I can take the opportunity to introduce the gentleman on our extreme right, the Deputy Minister of Labour, Mr. Tim Armstrong.

Mr. Chairman: Sometimes referred to as the Lone Ranger.

K. Burkett, sworn.

D.K. Aynsley, sworn.

H. Freedman, sworn.

E. Meslin, sworn.

T.E. Armstrong, sworn.

Mr. Chairman: Will you proceed, Mr. Adams?

Mr. Adams: Mr. Chairman, I have a brief introductory comment and then the board is here in terms of all its senior officials to respond to any questions that you might have, or have

arisen, out of the last day of testimony before you.

Mr. Chairman and honourable members, the labour board is pleased to appear before this committee. I understand the standing procedural affairs committee is engaged in an ongoing review of the administrative agencies with the aim of reducing redundancy and the overlapping of functions. A brief review of the committee's earlier reports also reveals helpful recommendations on administrative rationality, as well as improving responsibility and accountability.

Given the great number of administrative agencies, boards and commissions that have been created over the years, and the public funds they expend, the importance of the committee's work, I submit, is self-evident. I might also add that so is the committee's work load. Too seldom does the labour board have an opportunity to explain its operation to members of the Legislature and the public.

On a day-to-day basis my colleagues and I are occupied by the board's sizeable docket of cases and the need to act in a quasi-judicial manner. Indeed, it is this adjudicatory nature of the labour board that tends to confine its interface with the public to the righting of decisions and the settlement activity of our labour relations officers. Thus this occasion to meet somewhat informally with you and other members of the committee is appreciated.

The Ontario Labour Relations Board is one of the most senior administrative agencies in Canada. It has been in existence since 1947. The board has played a central role in labour management relations in the province since that time. It represents the classic administrative agency from an administrative law point of view, and its record before the courts provides much of the grist for law school courses devoted to administrative law and labour law.

The board's procedures combine the functions of adjudication, investigation and mediation. The board itself is an independent, tripartite body consisting of a chairman, an alternate chairman, eight full-time and part-time vice-chairmen, eight full-time and 20 part-time board members. It is supported by 18 labour relations officers who undertake the fundamentally important prehearing investigative and settlement functions under the board's direction.

The organizational infrastructure of the board consists of a staff of 63 very experienced persons who are instrumental in the board maintaining its reputation for administrative fairness and expedition.

The principal responsibilities of the board relate to: First, the processing of applications for certification and the related responsibility of determining the appropriate bargaining unit; second, the adjudication of unfair labour practice complaints; third, the processing of applications relating to unlawful strikes and walkouts and the issuance of cease and desist orders and declarations; fourth, the administration of

the duty to bargain in good faith; fifth, acting as a grievance arbitrator in handling jurisdictional disputes in the construction industry; sixth and last, for the purposes of this summary, the administration of the trade union's duty of fair representation.

In shouldering these responsibilities, the board seeks a result which makes industrial relations sense that is fair, and that is achieved as quickly as is reasonably possible in the circumstances.

In 1979-80, the board disposed of 2,232 matters. Approximately half of these matters consisted of applications for certification, with unfair labour practice complaints and grievance arbitrations, making up the next two largest groups of cases processed.

There has been a steady increase in the matters coming before the board with 1979-80 representing an increase of 161 cases over those disposed of in 1978-79. Fifty-six per cent of the cases in 1979 and 1980 were disposed of within 29 to 35 days of their filing, and 70 per cent were disposed of within 57 to 63 days of filing. This represents a somewhat faster processing of cases than in the previous year.

The volume of cases is again increasing in 1980-81, and to maintain its performance, the board has introduced a waiver of hearings system and is currently reviewing its case scheduling and monitoring procedures to see what efficiencies can be added.

The challenge for the board, as it goes into the 1980s, is to continue to provide meaningful solutions to the increasingly sophisticated and complicated matters coming before it, and to do so in the most expeditious and yet fairest manner possible.

Mr. Chairman: Thank you Mr. Adams.

Are there any of the others on the panel who would like to add anything to what Mr. Adams has said? Do any members of the committee have questions?

Mr. Mancini: Yes. By far the most controversial presentation, in my view, made to this committee so far concerning the board was made by the Ontario Labour Relations Bureau--I want to get this correct--of the Ontario General Contractors Association, I believe, and that representation was made by their attorney, Mr. Binning. I do not know but I think possibly Mr. Freedman was here when that presentation was going on. Since, in my view, they said the most controversial things, I would like to get that cleared out of the way first.

They had several complaints. They complained about section 79, which they felt gave the board unlimited power. They complained about section 81, jurisdictional disputes. They complained bitterly about the injunction sections of the act, 82 and 123. They complained about section 135 where the board decides under what sector a certain project is to fall under.

Finally, they complained about the manner in which board

chairmen and vice-chairmen were appointed. They complained very bitterly about that. They stressed the fact over and over again that it was their view, for reasons they explained, that they felt the positions of chairman and vice-chairman were of great significance and they felt that unqualified people were being appointed to these positions.

Mr. Binning stated--I believe I have the quote properly--"Employers have no confidence." Then he went on to say because of the types of decision your board is making, he felt that your status should be elevated to something as a Supreme Court justice with many years' experience in the industrial field, labour, management, et cetera.

I was wondering if you would have any comments on that, or any type of rebuttal, or could give this committee maybe a summary of the experience that the chairman and vice-chairman bring to their work, and any other information you feel might be useful for us to hear the other side.

2:50 p.m.

Mr. Adams: The most serious concern in the matters you raise would be, from my point of view, the charge that the vice-chairman and the chairman are unqualified to carry out their function. To respond to that kind of a charge though is somewhat difficult. If someone alleges that you are unqualified and therefore incompetent in the work that you do and you feel differently, what are the tests to demonstrate that you are right and they are wrong?

I do not know whether Mr. Binning went on to describe what would be the tests against which you would measure competence.

Mr. Mancini: He did, sir. He mentioned many years of experience.

Mr. Adams: Let's just stop on many years of experience. I would be prepared, and I agree to do so, to file a curriculum vitae for each member of the tribunal, including the vice-chairman and the chairman. In my view, the records, professional careers, of these people speak for themselves, just by looking at what they have been engaged in.

The most recent appointments to the board have been my own, the vice-chairman by the name of Morton Mitchnick, and another vice-chairman on a part-time basis, Robert Howe. I do not think it is appropriate for me to say how qualified I am for the position that I hold. I can say that I have not practised on either the labour or the management side. I have practised law, and have taught law for a number of years, was the assistant deputy minister, and I have been the chairman of many boards and tribunals in the private and the public sector. But I have not practised on behalf of labour and management.

Most of my colleagues would fall into that category, with the exception of Mr. Mitchnick who, as I say was recently appointed, and has some eight years' practice on the management

side of labour relations, and Mr. Howe, who is going into his third year, although he had taught law for five years, and he practised on the management side, although with some experience on the trade union side.

This lack of experience in terms of practising for one of the constituents or the other is not unique to the labour relations board or to labour adjudication in this country. If you look at the experienced labour arbitrators in the country, people who are not appointed but are selected by the parties to act under their collective agreements, they are not universally people who have had experience practising for one side or the other. They tend to be people who do not come out of that context at all.

That may well be a product of the ideology that surrounds the two sides, and to some extent, their representatives become associated with that ideology and it may make it difficult with the odd exception for others to perceive their role in the centre of industrial relations as a fair one.

As I have said, the people who are arbitrating under collective agreements and selected by the parties, in Ontario, the principal arbitrators tend to be graduates of the Ontario Labour Relations Board, former vice-chairmen of the Ontario Labour Relations Board, or they tend to be law professors with no experience acting for one side or the other. Or they may well be lawyers who carry on a commercial practice or a nonlabour-relations practice.

Indeed, just the experience of practising is not, it seems to me, an important test of competence. The chief justice of the Supreme Court of Canada, Mr. Justice Bora Laskin, is a man who has never practised law, which Mr. Binning would suggest is a fundamental test of competence. Yet, I do not think anyone here or anyone who has a view about the Supreme Court of Canada or the competence of jurists would charge that the chief justice is unqualified for the position that he holds. I differ from Mr. Binning on that measure of competence.

Mr. Chairman: Just to pick up on that point--

Mr. Mancini: I am not finished.

Mr. Chairman: Excuse me, sorry.

Mr. Mancini: Are the members of the board appointed through the Minister of Labour?

Mr. Adams: The appointments to the board are all by order in council--appointment at the prerogative of the Premier. The way that is done would be on the advice of the Minister of Labour with the appropriate--

Mr. Mancini: Who would, of course, consult with Mr. Armstrong, since he is the deputy minister.

Mr. Armstrong: I think we can be a little more specific about the appointment. There are two methods of appointment, one

relating to the appointment of the chairman, vice-chairman and the alternate chairman. I think I am correct in saying that in all cases of the people in the middle, that is, the chairman, the vice-chairman, the alternate chairman--with respect to the incumbents at least--the recommendation comes initially from the incumbent chairman to the minister. The minister asks my advice, then goes to the Premier and then the cabinet considers it.

With respect to the side men, labour and management, the act provides, as you know, that those people are partisan appointments in a good sense. They are appointees of employees and of management. In that case, on the employee side, the usual nominating body is the Ontario Federation of Labour. On the employer side, the usual nominating body is the Canadian Manufacturers' Association. In the construction industry there are some variations to that. Then those recommendations come forward and follow the same route.

In the case of Mr. Adams' appointment, it was a matter discussed between the minister and me and went forward to the Premier for cabinet consideration.

Mr. Mancini: I see.

Mr. Adams: Mr. Mancini, going back to the issue of a lack of experience in terms of practising or acting on behalf of one side or the other, the deputy's comments remind me to remind you that the labour board is a tripartite adjudication agency. Any lack of experience with respect to acting on behalf of one side or the other is made up for by the nominees of the respective parties who are sitting on a panel hearing a case.

As you are aware, we sit in panels of three. It is the duty, obligation and responsibility of the board members to reflect their own experience and the interests of their constituents in the matter that is before the board.

Mr. Mancini: But if you heard Mr. Johnson's testimony, he said sometimes you feel like you are only talking to the chairman of that particular panel because he noticed that after a while in some cases the appointees almost lost interest for whatever reasons. So we must understand the chairman of the panel is very important because that person, in many cases, casts a tie-breaking vote.

Mr. Adams: The chairman of the panel is very important; although I would tell Mr. Johnson not to feel too concerned when one of the members stops writing, because the chairman is writing down everything. It may be that the failure of one of the members to write simply reflects a reliance on the notes of the chairman or that the board member is fully familiar with the issues that are being testified to and is prepared to deal with the vice-chairman, without the aid of notes. when the panel adjourns. He just finds it unnecessary for purposes of representing his viewpoint on that case.

3 p.m.

Mr. Mancini: I would like to ask Mr. Armstrong how they go about advertising these positions as they become available for new people to be appointed. Do you have a system of advertising?

Mr. Armstrong: No, there is no system of advertising. These appointments are not made under the Public Service Act, they are made pursuant to the Labour Relations Act. The custom, tradition and convention have been that it is the chairman who, in effect, is the chief adjudicator and the chief executive officer of the board. So the tradition over the 35 years of the board is that the chairman, initially at least, is looked to for his recommendation.

I cannot think of a vice-chairman who has not been nominated by the chairman initially.

Mr. Mancini: It looks here from the information we have that there are quite a few people appointed on a full-time and on a part-time basis. Do you not feel you might be leaving some of the good talent untapped if a proper system of advertising is not available?

There might be a few crackerjacks out there who could certainly be of assistance to the board. Without a direct line into your office or into somebody else's office, I do not know how that particular person would even be able to bring to your attention that he would be interested in serving in this regard.

Mr. Armstrong: Let me just preface my answer by saying that I find it a little harder than Mr. Adams does to be temperate about an allegation that senior tribunal in this province is composed in whole or in part of incompetent adjudicators.

I may say for the record that I know Mr. Binning and I have a great respect for him as a counsel. To my knowledge he has never made representations to the Minister of Labour, the Deputy Minister of Labour, or to the chairman of the labour relations board, the man primarily responsible for the operation of the board, similar to the ones alleged yesterday.

I heard about yesterday's testimony. That's the first time I have heard it suggested in a public forum and, indeed, privately that there is incompetence in the board.

I don't want to overreact; I don't know what privilege attaches to these proceedings. But I find it a rather remarkable thing that he would do that--if I am correctly informed--in the face of a request for specifics, fail to give specifics of what he was talking about.

Mr. Mancini: I accept your comments.

Mr. Armstrong: If I might now allude to your question: Sure, I think if one is having difficulty attracting able talent--a premise that I don't accept--then I think one has to be imaginative about the way you advertise or go about your search process. So far, in my judgement we have not had difficulty attracting able people to the board. But if that eventuality

should come to pass, I see nothing wrong with the method of advertising that you propose.

Mr. Mancini: Mr. Armstrong, I haven't judged whether the people who have been chosen are able or not. I haven't made that judgement. The only question I put to you was, if you do not have a proper system of advertising, how are we going to be sure that excellent people in the field who may wish to serve going to get the opportunity to serve if they do not have a direct line into your office?

I certainly am not making any judgement at all on the ableness of the members of the board. As you may recall, in my opening question I was specific in saying that it was one organization who made that charge. After the response by Mr. Adams I left the matter and went on to other questions. So my first question still stands.

Mr. Armstrong: I don't want to be misunderstood. I was not suggesting that you were adopting, acquiescing or agreeing to the testimony given yesterday.

I return to the proposition that your proposal only becomes relevant if it is accepted that we are having troubling recruiting.

I think one prime way of testing the abilities and competence of the chairman and vice-chairman is by looking at the quality of their decisions. Among other things I read the decisions of the labour board. I think they are particularly high quality decisions. Indeed, in certain recent court decisions the same observations have been made. So I think the on the most objective test, that is, the quality of the jurisprudence, I think the board is very high quality.

To return to your specific question, I don't rule out the validity in some circumstances, if one is having difficulty recruiting the appropriate type of people, of advertising on a broader basis. I can see that might be a useful thing to do. Happily, it has not yet been necessary to do that because high-quality people have been available through the 35-year tradition of getting people--that is to say, leaving the recruiting efforts up to the chairman in the first instance.

Mr. Adams: Just to follow up on that point: I think it is fair to say, if there are people in the labour-relations community who are interested in serving on the Ontario Labour Relations Board as a vice-chairman, for example, and in effect making a change in career pattern, they can at any time make an appointment to see the chairman and talk to him about it. That happens on numerous occasions. One develops a list of interested candidates on that basis.

Another consideration that the chairman has is that you are looking for people who can act in a quasi-judicial manner and have some experience or sense about industrial relations and what is a fair and workable solution in that context. You are looking for people who can work with like-minded individuals in a fairly small

group. I am not sure that a broad posting and then the interview of applicants by either myself or a personnel officer hired by the board, that that screening is the best way to go about it.

The chairman of the labour relations board, because of his office and because of the exposure he gets to the industrial-relations community, develops a considerable knowledge about the kind of people that he would like to see serve the board during his tenure and after his tenure, and recruiting is done in that vein. As the deputy indicates, it is not apparent that recruiting has experienced any difficulties, or left a lot of stones unturned in the sense of there being many candidates out there who are suited and who are interested and yet not given the opportunity of expressing their interest.

Mr. Mancini: The other side of the coin is, you don't know if you don't advertise. My view is that, while it may not be so, it appears to be almost a closed shop in the way you make these appointments. Since this is such an important agency of the government and since you make decisions that affect a great many people, it would be my view that greater advertising should be done when openings come up for board appointments. That way it would certainly give the appearance, at least, that all people who are qualified would have an equal opportunity.

I don't believe that saying, "Oh, yes, I know just about everybody in the field and therefore I can choose the best," is the right route; although I know you have done it for quite some time. That is my opinion as a member of this committee.

3:10 p.m.

Mr. Adams: I don't, as the deputy, reject that out of hand. I just question whether it is necessary. I guess there is a darn good argument on both sides whether it is appropriate in selecting judicial personnel. I don't know--and this might be an interesting analogy--whether in appointing jurists, for example, that the Attorney General's department in Ottawa advertises for the appointment of judges to the Supreme Court of Ontario.

Mr. Mancini: I don't know about that, but you are the agency that is before us now, so I have to speak to your board. I cannot speak to how the Attorney General does things. I imagine if we had him before us we would have several questions for some of the things that he does.

Mr. Adams: I'm sure you would.

Mr. Mancini: Mr. Chairman, I know earlier you had some questions. I am going to leave this subject and go on to two or three other different subjects. If you want to--

Mr. Chairman: No, that's all right.

Mr. Mancini: The Ontario Federation of Labour, in their paper and during their discussion today, had strong criticisms of the use of petitions by employers during the certification process. I would like to hear from the board how they view these

petitions and how they handle them when they come before the board and if you actually believe that this is a necessary practice that we should continue.

I am kind of sceptical of the practice myself and have been for some time, but I wonder what experience the board might have had on this matter and what your feelings on it are today.

Mr. Adams: I had with me some statistical information on petitions which is relatively current and which I seem to have misplaced. I have some similar material for 1978. Let me give you that; I think it is representative of the petition activity before the board over, say, the last eight years. It really hasn't changed in any quantitative sense. These are approximate figures that I will give you. They are taken as a summary from more accurate data, but I think they fairly convey the state of affairs in 1978.

In 1978 we had approximately 1,020 applications for certification and petitions were filed in 126 cases. Of the 126, only 101 were applications where the trade union would otherwise be certified outright without a vote. The difference between 101 and 126 would be cases where the trade union did not have over 55 per cent to begin with and so the petitioners would get a vote in any event.

Of these 101 applications where the trade union would be entitled to outright certification were it not for the petition, 61 involved petitions where there was no overlap between those people signing the petition and those signing membership cards. So the petition was essentially irrelevant; it didn't affect the weight to be given to the membership evidence filed with the board.

We were left with 40 applications where there was a relevant petition. There was an overlap that was sufficient, if the board was satisfied as to the voluntariness of the petition, for it to order a representation vote in order to test the membership evidence filed by the trade union.

Of those 40 cases, then, where we had a relevant petition, the petition held up to the board's scrutiny in 13 applications, so a little over 25 per cent or a little under one third of the relevant petitions were adequate from the board's viewpoint. Accordingly in those cases a representation vote was ordered.

The statistical relationship between the number of petitions filed in any year and the total number of applications is pretty constant; the number of relevant petitions to the number of total petitions filed is pretty constant; and the number of petitions that are found to be adequate and sufficient to justify the ordering of a representation vote has also been constant throughout the years.

As to the merits of the petition concept as opposed to making, let us say, a firm choice from a legislative point of view between representation votes or trade union membership cards as a way of determining support in a trade union, I am not in a

position to speak on behalf of the board and say what the board's view is, and indeed I question whether it is appropriate for the Ontario Labour Relations Board, which is the agency that has to administer the statute as it is currently written and the regulations as they are developed, whether we should be collectively passing on the merits of the existing laws of Ontario.

If I gave you my view, Mr. Mancini, it would end up being my personal view because, as I said, we are an independent tribunal and I am sure that my view would not be at all consistent with a good number of the people that man the Ontario Labour Relations Board and my view may well differ from those of the vice-chairman. It is not an issue on which we have formulated any collective policy view.

Mr. Mancini: I am a little bit surprised by your comments, Mr. Adams, because in a parliamentary system all of the legislation initiated, except private bills which we have an opportunity as private members to introduce, does come from the government.

Surely the Minister of Labour, working in close conjunction with the deputy minister, who would be working in close conjunction with all aspects of his ministry, would from time to time, I assume, with, I am sure, all of the outside advice--and by outside I mean outside of the ministry--would be making recommendations every now and then to the Minister of Labour as to possible appropriate action as far as legislation is concerned as time goes on. So I would have thought it would be a normal course of action for the board, possibly, to inform the deputy: "You legislators have passed this act but we want to make sure that you know exactly what you have done. Please inform your minister that certain sections of the act are causing severe disruptions this way, or severe disruptions that way." That was my line of questioning.

Mr. Adams: As I indicated in my remarks, a board does not view itself as part of the Ministry of Labour. We view the labour board as an independent, tripartite, administrative agency, people who have been appointed to administer the statute. We are not appointed to give our collective view of the wisdom of the existing legislative policy of Ontario. I would be prepared, if it would be of assistance, to sort of give the merits and the demerits of the petition concept, but I think--

Mr. Mancini: Almost every group that appeared before us had severe complaints about the petitions. Almost every labour organization that has come before us--

Mr. Adams: Has those complaints--

Mr. Mancini: Yes.

Mr. Adams: --and I would think every management organization has the opposite view with respect to the validity of petitions. The management view would be that--

3:20 p.m.

Mr. Mancini: I am not so sure I heard it so strong on the other side.

Mr. M. Davidson: They wanted a trade-off.

Mr. Mancini: They wanted votes.

Mr. Adams: What you end up with in this area is, in terms of the constituencies that appear before us, the trade unions wanting membership cards, the employers wanting, if they could draw up the statute, representation votes, the statute itself having some middle ground called a petition, and each of them, if they cannot get their way with respect to the one view or the other, would like to see the petition concept changed one way or the other.

The trade unions would say, "Okay, let us have the date of application the terminal date," and the employers would like to see the terminal date extended to a greater period of time. The parties themselves are pretty well fixed in their opposite views.

For the tribunal that has to adjudicate the statute to side with one party or the other and then the next day go in and administer the statute, I am sure that what happens is that you end up with a charge when a case goes one way or the other that the board did not really listen to the evidence but was simply implementing its views.

Indeed, I gave a speech in June where I was talking about trends in industrial relations, legislative trends with respect to certain jurisdictions moving towards reliance on membership evidence as opposed to representation votes. Looking at the brief of the Canadian Manufacturers' Association, they have taken that as a personal view of the chairman, with some suggestion that that personal view has an impact on the way the board implements its current policy with respect to discretionary representation votes.

Reading the full context of that speech indicates that I was simply reporting on a train of legislative events I saw across the country, but I think the situation illustrates the problem of anybody associated with the labour relations board giving their view about what they think is the best way to go.

Mr. Mancini: I have a personal complaint about the board. Many of my constituents who have to appear for individual grievances filed, it appears to me, have to wait an undue length of time to get those grievances heard and acted upon. I was wondering if you had heard the same complaints made to the board office.

For example, I found it not unusual for the grievance procedure, by the time they get a date and everything, to take almost a year before the employee gets to find out exactly where he stands, especially on cases of dismissal. This to me seems to be an extraordinary length of time to get the matter dealt with and I am sure you can understand the problems that the individual

employee faces. He has either been suspended for three or six months, or maybe has been suspended from work permanently, and he does not know whether he should go out and look for another job; he does not know exactly where he stands.

You would think that in a case where the matter is as serious as a person's livelihood and his future employment is at stake, the board would move quickly to hear all of these cases. I do not know what your stats are but if you say to me that the majority of them are dealt with expeditiously, that is not good enough because the other individuals who are caught in this bind are not helped at all.

I have had several cases where some of my constituents have had to wait up until a year before the final adjudication is made and then when the decision was rendered the company says, "We take the board's decision to be this way," and the union and employee say, "No, we understand the decision to mean this," and then they have got to appeal the matter again. This amounts to thousands of dollars for the employee along with all the other anxiety involved, and to me that is something I wish the board would address.

Mr. Adams: Mr. Mancini, I think it is important to distinguish between the kinds of claims that employees may have in a collective bargaining context. If they are grievances under a collective agreement with respect to the discharge of employment that the employee believes is without just cause as is required by the collective agreement, the labour relations board, except in the construction industry, does not have any jurisdiction over those types of claims. Those types of claims are dealt with through private arbitration. The parties go and select an arbitrator, go through their grievance procedure and finally off to grievance arbitration which is held in Toronto in a local hotel and the private arbitrator, who is selected and paid for by the parties, eventually releases his decision.

The delay and costs associated with that process have been the subject of an inquiry by an industrial inquiry commissioner appointed by the Minister of Labour and then a bill, Bill 25, was introduced and passed into law providing in effect an alternative to the private arbitration system, a panel.

You can apply to the minister to have your grievance heard under this particular statute. The minister will appoint an arbitrator who must hear the matter within 21 days. That system is in operation and so an employee has a choice under a collective agreement of going the conventional route under his collective agreement or, in effect, opting out and asking for the minister to appoint an arbitrator and the process happens quickly.

If it is a matter that we are involved in it is likely dismissal that arises allegedly out of a union organizing campaign or it is an application for certification or it is a grievance in the construction industry.

The best that I can do for you is to say that the board understands full well that justice delayed is justice denied and

that we have an elaborate monitoring system for our cases and that time lapse statistics for the various types of cases before the board are made available to the public and you can track the efficiency of the board over time. As I did in my opening remarks, I can give you percentages of lapsed time with respect to the processing of cases.

You are right that there will be a minority of the cases that seem to be disposed of within, let us say, 106 or 126 days, or even longer, and you would say, "It is very well that 80 per cent of your cases are disposed of within 60 days, but what about the other 20 per cent?"

I think the other 20 per cent almost have to be analysed on an individual basis. What was it about those cases that caused them to be disposed of under those conditions? I would be very interested to know and I do look at the reason for those individual cases and the reasons tend to be that they were complex matters requiring more than a day of hearing, maybe several days of hearing.

For example, Mr. Johnson talked about 112(a) grievance arbitrations in the construction industry and some of the delays there. The statistics reveal that in 1979-80, 75 per cent of the cases were disposed of from the date of filing within 70 working days. What about the other 25 per cent? The other 25 per cent are affected, for example, by the adjournment preference of the parties; cases will be rescheduled for hearing if they cannot be handled in the course of one day. When they come on again the parties themselves may decide they are not ready to go on; they want to try and work the problem out themselves. They do not want to continue the litigation so the matter is adjourned.

3:30 p.m.

Many of these cases would come up three, four and five times where the board would assemble a panel, get ready to adjudicate the matter and then the parties say they would like an adjournment, they do not want to go on. The board, at present, grants that adjournment and does not force one of the parties on on the theory that if they are able to work out their own accommodation that may well be better for them than us intervening.

Yet, over time, we get time going by and it does not look good for the statistics or any individual that is involved if he is not kept apprised of why his union that may be controlling the matter is adjourning, is trying to work this matter out voluntarily.

So if you have constituents who are making these complaints I would ask for your help in the sense of identifying the matters and I would be pleased to provide the information as to why that delay is taking place. If it is unjustifiable, then we have to clear up the problem in our house to avoid that kind of situation in the future.

Mr. Mancini: Very good. I have no further questions.

Mr. Chairman: I have a couple of questions which I wanted to put to you having to do with the nature of the board and the testimony which the committee has heard. As was pointed out before, there has been a good deal of discussion about the quasi-judicial nature of the board, whether the balance is correct, whether everyone appearing before the board feels comfortable, whether there should be more of an injection of the legal system into the board or, perhaps, disband the board and move it over to the courts.

It seems difficult to get much of a measuring stick as to whether the board has been successful in arriving at its conclusions and how that would fare if you replaced it with a judicial system, either by bringing in the Supreme Court justices or booking the stuff out.

Do you have any record of how your rulings stack up when they are referred to the Supreme Court? What is the record of the Ontario Labour Relations Board in regard to those matters? Are you defeated regularly and soundly? What is the record?

Mr. Adams: I wish that I had brought with me a statistical review of the number of applications over a selected period and then could advise you in a precise way as to what our win-loss record is, because I think that is the nature of the question.

I think it is fair to advise you--and we will do so specifically; we will pull this data together for you and provide it to you--that the record of the Ontario Labour Relations Board in the courts is exceptionally successful. The alternate chairman advises me that we are taken to court 10 to 12 times a year. We have lost two cases over five years.

Mr. Chairman: That is not a bad record. I wish there were some other courts who could boast that kind of a track record.

In the number of aspects which have been discussed one of the suggestions by Mr. Binning that we bring down the Supreme Court justices and stick them into the system has caused a number of people to question that, not that it was an exhaustive study by any means, but I went over in my own mind who sits on the Supreme Court that would know a factory if they saw it, could identify a worker if they fell over one, or could run anything larger than a light bulb? I came up with an extremely short list of qualified applicants.

Can you give us some estimate in that regard of whether the appointment system could be altered in some way to seriously take into consideration the suggestions which he made? I do not believe that he was serious that we bring the Supreme Court in on this, but he was certainly making a pitch that we go to people with more practical legal backgrounds that, in essence, they would be for all intents and purposes, of a judicial nature.

What ramifications would that have? You pointed out in your remarks previously that there would be some difficulty for someone who had specialized in labour law on either side and had, say, 20 years of experience functioning before a board, or in a court

system, on behalf of the unions. It would be very tough for that person to all of a sudden don a wig and a gown and enter into another situation and sit as a judge and have the other side say, "That is fair." He would probably wind up with a bunch of lawyers in there saying: "Listen, I've known this guy for 20 years. I know which side he has been on and I am not getting a fair hearing in here."

If the case were on the other side, if you had someone who specialized in corporate law, or industrial relations, or whatever, and they had a long, distinguished career operating on the part of corporations, and we brought those people in and said, "We now want you to chair this board," I am sure the unions would be in here in large numbers saying: "Wait a minute. We know who this guy is. He did not just pop out of the clouds. This guy has a track record a mile long and he hates unions so we are never going to get a fair shake off this guy."

So it becomes rather difficult to find someone who has got the neutral ground, on the one hand some background in law or industrial relations, who has not clearly carried the flag for one side or the other for a long period of time.

Have you any suggestions as to how the committee might kick that one around a little bit?

Mr. Adams: Much of the appointment problem has to do with defining what you are looking for in terms of the adjudicative result. As you point out, industrial relations tends to be a blend of law, business, sociology, practical experience of the work place from an employee point of view and trying to find someone that has all of the requisite attributes is not an easy matter.

I would not want my earlier comments to be construed as saying that no member of the bar, for example, or no member of the trade union who represents employees would be unacceptable to the vast majority of people in the Ontario industrial relations community as a vice-chairman of the Ontario Labour Relations Board.

For example, the now Deputy Minister of Labour was the chairman of the Ontario Labour Relations Board when I was at the board as a vice-chairman. Prior to his appointment as chairman, he had practised for some 15 years as counsel on behalf of trade unions in Ontario.

As chairman, I do not think there was any thought in the labour relations community that his decisions were not fair or that he was not trying to be fair. In fact, I think there is a bit of a dilemma for people who act on one side or the other coming in to the adjudicative stable in the sense that they may feel psychologically an obligation to lean away as far as possible from the side on which they had acted so that it becomes clear that there is no bias at all and may find themselves having a much tougher time as an adjudicator than is really required by the parties.

The failure to attract practising lawyers may well be a result of their view of the variety of work that a tribunal does.

We do not interview clients. There is not a lot of interpersonal contact with people in the industrial relations community. It tends to be a fairly insular life because of the adjudicative nature of the functions. Many lawyers would not like that.

The income differential is a factor, and it is always going to be a factor in terms of the difference between remuneration as a public servant and remuneration in the private sector. Whether the salaries were \$50,000, \$60,000, \$70,000, \$80,000, \$90,000 or \$100,000, in terms of the superstar legal talent out there, there will always be a vast discrepancy between what they can earn in private practice and what you can reasonably pay as a servant of the public.

A great number of people, for obvious family reasons, are not prepared to make that change in career. It is a difficult matter, I think, for practitioners to interrupt their practice for a couple of years, for example. There are tremendous tax consequences during that period of time and then there is the difficulty of getting back into practice.

3:40 p.m.

So the fact that we are not manned overwhelmingly by people with legal experience may well be a problem that the committee really cannot deal with, even if it believes that lawyers with that practical experience ought to be manning the Ontario Labour Relations Board. On just that policy, though, of whether it ought to be lawyers with labour relations experience on the Ontario Labour Relations Board sitting as vice-chairmen, I do not think that is necessary at all. On my left is Kevin Burkett, the alternate chairman, who is not a lawyer and who is one of the most respected neutrals in the province and in the country.

We have another vice-chairmen, Mr. Norm Satterfield. He is not a lawyer. He is well respected for his decisions as a vice-chairman. He has substantial industrial relations experience, as does Mr. Burkett. Mr. Burkett has experience as a staff person for a trade union involved on the employer side and then as a mediator for the Ministry of Labour. But he is not a lawyer and it has not, to my way of thinking or any one else's, affected his acceptability or his capacity for reasoned adjudication.

In deciding whether we ought to be manned only by lawyers, I think you have to have regard to the fact that, particularly trade unions, have their own officialdom who are quite capable of representing employees and do not need the services of a lawyer to process matters before the Ontario Labour Relations Board. We have heard that lawyers are very expensive and whether they need it or not they may not, on choice, decide to have a lawyer before the Ontario Labour Relations Board and the Ontario Labour Relations Board has to cope with that reality that, as an administrative agency, we are where lawyers and nonlawyers should be able to come and present their cases and have them adjudicated quickly and fairly. I think you cause some difficulty in achieving that end by selecting your adjudicators exclusively from one source, the legal community.

Mr. Chairman: I want to move to a slightly different subject. A matter was brought to the attention of the committee on the practice of labour and management deciding every once in a while that they really do not want this to go before the board.

In particular, it was put to us by the bureau of labour relations, I believe it was called. But there were a number of areas where they were really rather frightened that boards would get their hot little hands on something. In that instance, they have chosen not to put matters to the board but rather to negotiate their discussion of rights, or who fits into what sector, and all of that kind of stuff.

Mr. Binning went on at some length that there was so much money involved. In essence, that is what he said. He may be mad at me for paraphrasing it, but in essence what he said was that there was too much money involved in this to let the board get their hands on it so they take the bull by the horns themselves and negotiate with the unions involved.

Does that concern you that that practice occurs in the first place? Secondly, that is not a public practice; that is a private negotiating procedure. That is the way Mr. Binning put it to us. I should preface by saying I am not quite sure that is exactly the case but that, in essence, is what he told the committee.

Mr. Adams: That phenomenon is not confined to litigation before the Ontario Labour Relations Board. I would be surprised if there were many litigation lawyers practising in Toronto who, with a claim of a few million dollars, are interested in having that matter finally adjudicated by the Supreme Court of Ontario when the answer has to be yes or no.

I have heard it said often: "This case is too big. Too much rests on this case to let it be decided by a judge who can only answer, 'Yes, you win,' or 'You lose.'" Therefore, parties in a commercial context sit down and say, "Okay, what can we do so that everybody gains or that each of us minimizes the losses associated with this tremendous problem that we have?"

It does not surprise me that the same situation arises before us. Yes, we do deal in matters that are very important from a financial point of view to the parties. I would be surprised if parties were wanting to have us decide these big matters. If they can decide it for themselves, they ought to. These labour relations officers aim to facilitate that settlement process.

I differ with Mr. Binning if he says that his unwillingness to come before us is a product of the confidence he has in the personal capacity of the vice-chairman.

Mr. M. Davidson: I think he was referring specifically to section 135 of the act where the board makes the determination under the ICI sector.

Mr. Adams: The construction industry is divided, legislatively, into a number of sectors. A very important sector would be the industrial-commercial-institution sector. There are

other sectors--sewer and watermain, residential and electrical power system.

The question of sector can affect many parties in a single grievance. In the construction industry, as I am sure members are aware, it is not, typically, a case of just one employer in a collective agreement with a trade union, but many employers engaged in a collective agreement with one trade union representing many locals throughout Ontario.

Over the years we have moved from very local bargaining, particularly in the industrial-commercial-institution sector, to provincewide bargaining. The custom and practice of the parties is simply evolving from local to area to provincewide. Their approach to the issue of sector, before provincewide bargaining, may have varied right across the province. As we have moved to provincewide bargaining they have had to redefine their relationships. They have had to do so with respect to these multiparty agreements.

When one grievance is filed and the matter is raised, suddenly it is not an issue just between that employer and that particular local any more. If we are determining the sector for that collective agreement, suddenly maybe 40 or 50 interests are involved as well as related collective agreements that are claiming that they relate to another sector.

So you can see that when a sector issue arises, suddenly you have many people affected and a yes or no answer in a context in which the parties themselves have been trying to bring some uniformity to the collective bargaining problem but are just in the middle of doing so. I suppose the parties have been concerned about getting a yes or no answer from the Ontario Labour Relations Board on what a sector means, particularly when they are not giving a yes or no answer themselves when they are negotiating these collective agreements. Because so much is at stake for so many people, these parties naturally decide to resolve without recourse to the board.

3:50 p.m.

I do not think that is a matter where you can find fault with the board. You would do it no matter who was on the board. You would not want a yes or no answer to many of these issues.

Mr. Chairman: A couple of other quick points: The matter of transcripts has been brought up by several people. It is my understanding that, in essence, much of what the board does does not lend itself well to the keeping of transcripts. It would involve not only a great deal of expense, but the nature of the board's operation is such that it would be tantamount to a furtherance of the negotiating procedure.

In other words, every once in a while we should really close the doors and people can keep whatever records they want. There is a good deal of negotiating which goes on and it is informal in nature. The historical reasons for not keeping transcripts is somewhat along those lines.

Several people have said they would like to have transcripts of the board's proceedings. Would it be a major change, an interference in your process, a change in the attitude of all parties if transcripts were kept and made available?

Mr. Adams: I think it would be a major change. It would reverse a trend that has been ongoing throughout the years when labour relations have moved towards greater informality. For example, when the deputy minister was chairman there was a dramatic change in the physical structure of the board. We went away from the appearance of almost a provincial court, with a dais on which the board sat, a place for the lawyers and one for the audience, to simply a U-shaped table with chairs around it and everybody at the same level--really just a working atmosphere where parties were sitting down to solve the problem.

To introduce transcripts with all its recording equipment into that context would be putting us back on the dais again and introducing that judicial formality that we have been trying to get away from in labour relations throughout the years. Witnesses would become concerned about all this recording equipment. I think it introduces a physical atmosphere that is not something that we are trying to encourage. And it is expensive.

The federal labour relations board uses transcripts, primarily because of the extensive litigation that follows a federal labour relations board order through the courts, where transcripts are important for the court to see what it is that the board acted on. The expense is staggering. As well, the availability of transcripts slows down the process because you have got people not wanting to proceed until they get the last day's transcript before conducting their further examination or making submissions to the board. I think for all of those reasons it would not be helpful.

We do not stop the parties themselves from making transcripts. They could bring in a court reporter. We do not accommodate the court reporter; we do not make the court reporter a front-and-centre part of the process. But they can bring in a court reporter who can sit with counsel and take a record of what is being said. That is available to the counsel. But we do not slow the process down for those transcripts to be made available, nor do we view those transcripts as a record of the board's proceedings.

Mr. Chairman: There was also some discussion about "zapping up the process"--I guess that is the way to phrase it--so that you get a decision quickly. Then if either party is not happy with that decision, an appeal process can be put in place. Would you make a few comments on that?

Mr. Adams: The appeal process is obviously one that is going to create delay. The history of administrative law has been away from any form of appeal. If you have an administrative agency, you appoint people to it that you have confidence in. They make the decision, solve the problem and that is the end of the matter.

In the Ontario Labour Relations Act there is a privative clause which severely limits access to the courts because of the delay that is associated with judicial review and the fact that the second answer is going to be no more right or no more wrong than the first answer. So why go the second step? Particularly if the second step is going to be manned by people who have not been appointed because of their knowledge or expertise in labour relations matters, or who have not acquired it through their sitting on the bench.

The need for an appeal with respect to labour board matters is not readily apparent to me. The statute does provide for the board to reconsider its own decisions and parties are free to ask us to reconsider. If we have made an error in the light of our past handling of similar cases, or if something has come up since the case was adjudicated, the board is prepared to review the matter.

Mr. Chairman: One other area that always fascinates me is the whole field of the Labour Relations Act, with the board and all of its activities, and all that kind of stuff, which is fascinating in itself. But even more fascinating are the unstated areas where there is no law and which do not come before you, the kind of things that we saw around Ontario. For example, if a plant closes, it really is a matter of how strong your union is and whether you have the power to do something.

In some places, other agencies such as the police force will move in very quickly. In other places, they stay away. There seem to be many sets of laws at work here, and there seem to be rather large gaps. I guess it goes back to the very old idea that every once in a while in the process of industrial relations, there comes a time when you really should not have written down what the process will be from here. There should be an occasion from time to time where you close the doors and talk it out or where everybody goes for a walk for a little while. A cooling-off period is put into the process.

The law of Ontario does not address itself to a number of things. It seems to me as one observer of it that there are different laws at work. For example, one of my colleagues went to a picket line and had a few problems. The judge subsequently told him at some length that he did not think it was appropriate for a member of the Legislature to walk on a picket line. In my jurisdiction, if I did not walk a picket line I would have about 30,000 citizens on my back saying, "Where the hell are you?"

There are different contexts. In my own area I have been through labour situations where the police force is extremely active, and others where the police force is not to be seen.

Are you concerned that in much of Ontario's labour law there are these gaps, these spaces, and that you do not address yourself to them? Another whole mechanism takes over, one which by and large is unseen, unstated; the roles are not clear, things just seem to happen.

Mr. Adams: That is a pretty difficult question to respond

to. The way the laws are organized at present, the board has some jurisdiction with respect to picket lines to the extent that they contribute to an unlawful strike, for example. We have jurisdiction to enjoin in an unlawful strike, and if a picket line is causing an unlawful strike, then to enjoin the picketers from causing that unlawful situation, but we do not have a comprehensive jurisdiction for picket line activity.

There are the civil laws, as you know, with respect to inducing breach of contract or trespass, or any other tort that may arise out of picket line activity. There is the criminal law that deals with any violations of the criminal law that may arise in the context of picket line activity. Then there is, in essence, the civil law, or the law of the (inaudible), depending on what applies with respect to the employer-employee relationship. The employer has certain rights that he can exercise with respect to employees who engage in picket line misconduct.

4 p.m.

It may be that this collection of laws needs to be rationalized in some way and maybe not so many agencies involved in the regulation of that activity. I think it was suggested by your question that maybe because there are so many actors involved, and all viewing it from a different perspective, there is some big gap in the regulation of that activity or that it is being regulated in a way that is improper.

The one jurisdiction that has tried to grapple with this problem of too many decision-makers dealing with a common problem has been the province of British Columbia. It has allocated to the BC Labour Relations Board a substantial jurisdiction with respect to the regulation of picket lines and picket line activity. But even in that province the criminal law matters have been left to the criminal law.

The issue of scratching cars, or fights, or certain kinds of threatening, for example, that might take place that would be a breach of the criminal law, the board has no jurisdiction with respect to those matters. But that statute has precluded the courts from utilizing the old tort and contract doctrines and playing a principal role in the regulation of picket line activity. That is not the case in Ontario.

I do not know whether there is a great interest in Ontario in having the board allocated the responsibility for all picket line activity. Again, once you get into that, we are into the labour board saying that it ought to have more jurisdiction, or it is not satisfied with the jurisdiction that it has. I probably could not, I know I could not speak for all my colleagues with respect to what ought to or ought not to be the case. I think that is about as far as I can go on that.

Mr. Chairman: The committee is going to have to spend some time thinking about whether it chooses to make recommendations or not. It is a good question. The matter of the power of the board and the jurisdiction that is there does appear, at least to some of us, that there are areas where it is a good call as to who has

jurisdiction, who has what rights, what choices are available.

It is sometimes rather sad that a very basic power struggle might occur. If you belong to a well-organized, good, strong union you will be able to exercise certain rights that someone in a smaller local with perhaps not quite so much support staff or experience cannot exercise. Then that becomes the law of jungle kind of thing and offers a measure of unfairness.

I am going to leave you with that question.

Mr. M. Davidson: I have a couple of quick questions. Yesterday, during the course of the presentations from the groups that appeared before us reference was made to the decisions affecting the Radio Shack situation, which I believe was yours, Mr. Adams, and, of course, Westinghouse, which was Mr. Burkett's, I believe, and which I read this morning was upheld by the Supreme Court of Ontario.

The inference was, somehow or other, that the chairman, the alternate chairman and vice-chairmen of the board, both past and present, somehow or other have some undue influence over the other members of the tribunals that sit and hear these cases. This is the reason we are now getting these decisions.

Could you explain, in a major decision such as that, is it only the tribunal that hears it that makes that major decision or is it discussed with other members of the board?

Mr. Adams: The decision-making processes of the Ontario Labour Relations Board are not often talked about in the way, I guess, the decision-making processes of the Supreme Court of Canada are not often discussed. But I do not think there is any difficulty at all in responding to your question and advising how things are handled.

The responsibility for making a decision in any particular case resides with the three members of the board that are hearing it. We sit in panels of three with the odd exception. Recently we sat as a panel of five in a major construction industry reference. That was probably the first time we have done that since the early 1950s. The statute, to some extent, does not really envisage the board doing that although it is arguable that it is a perfectly proper way to proceed.

In the recent past, we have been sitting in panels of three. As I say, the responsibility for making the decision lies with that panel. But because one panel will make a decision that will burden the rest of the Ontario Labour Relations Board in subsequent cases, there is obviously a need to consult on matters of principle with the entire board. If there was no consultation you would run the risk, I think, of a great lack of uncertainty in the community, depending on which panel you get, you will get a different result although that is still possible under the system that we currently operate.

In any event, in a major case involving a new principle, for example, the principle of that matter will be discussed at a full

board session involving all members and all vice-chairmen of the board. The understanding is that the questions of evidence are not discussed. It is the panel that heard the witnesses which is making the determination of fact. The full board discussions are left simply to a question of principle as the panel thought of all the alternatives, and that kind of thing.

Typically, a consensus is not even a proper word to describe that process. It is simply one of discussion. You have labour appointees, management appointees together with the vice-chairmen at this full board session. The matters are discussed and then it is for the panel, having had that discussion, to go off and make its decision in the circumstances.

We are always interested in seeing the decision that finally comes out. But it is an important way to have all the views of those that will be burdened by the decision in the future out on the table. Personally, I view it as no different from a vice-chairman going to his library and reading a collection of decisions or labour law reports. It is simply another aspect of research with regard to principle.

Mr. M. Davidson: I have just one more question.

We had allegations yesterday that under section 79(a), a complaint that the employer normally appears before the board somehow or other without knowing what the charges were and the case he has to meet. Has that been your experience as a board chairman?

Mr. Adams: I wonder if I can ask the alternate chairman to respond to that, not because I am not willing to but I would like to, if you do not mind, have him respond to that question.

Mr. M. Davidson: No.

Mr. Burkett: I am not quite sure, specifically, what it is you are interested in.

Mr. M. Davidson: Let me put it this way. We received a brief yesterday which outlined under section 79(a) which, of course, is the reverse onus section that employers, in answer to the complaints that were placed before them, found it necessary to appear before the board to answer unspecified charges and the employer does not know the case he has to meet. In other words, the suggestion was that an employer appeared before the board without knowing why he was there. I am asking you, is that the case?

Mr. Burkett: No. The regulations under which the board operates stipulate that the complainant in any matter must particularize the material facts upon which he intends to rely with his complaint. The board is quite rigorous in having complainants adhere to that regulation.

Of course, the result of that is the respondent, the person complained against, has those material facts upon which to prepare his case and can ask for additional facts or information if he so

desires. During the course of the hearing he can ask to have the complaint restricted to the material facts as particularized in the filing of the complaint. So in answer to your question, in my experience, that has not been a problem.

Mr. M. Davidson: Fine. Thank you.

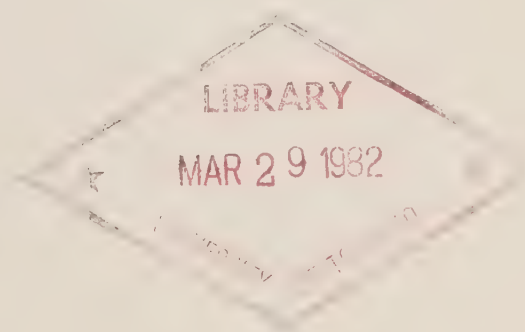
Mr. Chairman: Are there any further questions?

We thank you for appearing before the committee today. We have a couple of things which we might pursue through our research officer here between now and the time the committee prepares a report.

The committee adjourned at 4:12 p.m.

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STANDING COMMITTEE ON PROCEDURAL AFFAIRS
REVIEW OF ONTARIO NORTHLAND TRANSPORTATION
COMMISSION
TUESDAY, SEPTEMBER 30, 1980
Morning sitting



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Herridge, A.J., Deputy Minister

Witnesses:

From the Ontario Northland Transportation Commission:
Beatty, R.O., Manager
Hohn, W.H., Assistant General Manager
Mathews, W.J., Chairman
MacDougall, D.H., Commission Secretary

LEGISLATURE OF ONTARIO

STANDING COMMITTEE ON PROCEDURAL AFFAIRS

TUESDAY, SEPTEMBER 30, 1980

The committee met at 10:11 a.m. in committee room No. 2.

REVIEW OF ONTARIO NORTHLAND TRANSPORTATION COMMISSION

Mr. Chairman: This morning we are reviewing the Ontario Northland Transportation Commission. We have present Mr. Mathews, who is the chairman of the Ontario Northland Transportation Commission, and a number of people are with him.

Mr. Mathews, I think you have been made familiar with the process of giving testimony before the committee this morning. We will use the system we have used before of simply introducing one person, swearing that person in and letting him introduce the remainder of the delegation, taking them one by one as they come.

W. Mathews, sworn.

Mr. Chairman: Would you introduce the remainder of your delegation so that we can swear them in as we go along?

Mr. Mathews: Good morning, gentlemen. My name is Jack Mathews. I am the chairman of Ontario Northland Transportation Commission. I wish first of all to thank you for the opportunity to speak to you and to outline for your benefit some of the history of ONTC, as we refer to it. Most of all, I hope to give you an insight into what the purpose of this commission is.

I have with me today some of the members of senior management and one of my colleagues on the commission, who declined to sit up with us for the moment: Mr. J. W. Spooner, who I think is probably well known to many of you. The commissioners who are not with us include Mr. Peter Burns of Dryden, Ontario, Mr. Leo Foucault, the mayor of Espanola, Mr. Norman Karam of Cochrane, Ontario, and Mr. Ian Hollingsworth, of Sault Ste. Marie.

The senior management people who are with us today are, on my immediate right, Mr. R. O. (Bob) Beatty, our general manager.

R. Beatty, sworn.

Mr. Mathews: On my far right is Mr. W. H. (Herb) Hohn, the assistant general manager.

W.H. Hohn, sworn.

Mr. Mathews: Sitting between these two gentlemen is Mr. D. (Don) MacDougall, secretary to the commission and our senior financial officer.

D.E. MacDougall, sworn.

Mr. Mathews: These are the members of the commission, present and nonpresent, and the senior management personnel who are at present with us.

Our presentation will be made with the aid of slides and maps to familiarize you with the area we serve, as well as with illustrations of some of our equipment and various installations.

As a little background, I might say that ONTC was started in 1902, when the government of Ontario passed the Timiskaming and Northern Ontario Act approving the construction of a railway from North Bay northwards for approximately 114 miles, in order to develop and service the small farming communities situated around the shores of Lake Timiskaming near what is now known as Cobalt, Haileybury and New Liskeard; or, as we refer to it, the Tritown area. From that humble beginning the whole of northeastern Ontario was to be opened up.

In 1903, during construction of the roadbed through what was to become Cobalt, silver was discovered and the boom was on. Buoyed by initial success, the line was pushed north to Englehart and by 1908 had reached Cochrane, joining with the Transcontinental, which is now the Canadian National, Canada's second cross-country rail line, which had originated in Quebec City.

By this time gold had been discovered in the Porcupine and Larder Lake areas and a paper mill was planned for Iroquois Falls. During these fledgling years agreements were entered into with the Northern Telephone Company of New Liskeard to use the railway's telegraph lines for long-distance telephone calls. While it did not appear to be very important at that time, this arrangement has proved to be of immense significance, as we will see later on.

The first 10 years were a time of great achievements, as were the next two decades. Gold was discovered in quantity at Kirkland Lake, copper across the Quebec border in Noranda, paper mills were established in Kapuskasing, and wherever developments occurred the railway's role was to assist and further those developments.

In 1928, the commission launched its last significant rail expansion; that was to extend the rail line from Cochrane to Moosonee, a distance of 186 miles. In 1937, the commission began a bus line which provided highway passenger service between various communities. During the 1930s and 1940s, the commission operated at full capacity and was one of the few railways to earn a profit during this period.

Following the Second World War the commission launched an extensive equipment acquisition program, acquiring 1,000 boxcars during 1949 and 1950. In 1947, a program of conversion from steam to diesel locomotives was commenced. With the completion of the conversion program in 1955 the ONTC became the first railroad in North America to become fully dieselized.

The 1950s represented a low point in the railway's operation as automobiles became the predominant passenger mode, trucks grew

more and more popular for the carriage of small goods and a recession in the mid 1950s caused a significant reduction in activity. Finally, the gold mines of Kirkland Lake and Timmins were winding down.

The early 1960s, while starting off on a low note, are remembered as the introduction of a new modern era in the commission's history and began a period which was to be completely different from its first 60 years. In 1959, the commission acquired a trucking company and the northeast had its own large highway transportation service. In 1961 through 1963 the communications branch, in conjunction with the Department of National Defence, embarked on a microwave program that would result in ONTC being one of the most technologically advanced long-distance telephone systems in the entire world.

In 1962-63, an eight-mile spur line was constructed near Kirkland Lake to serve the Adams iron ore mine. In 1966, a similar four-mile spur was built near Temagami to service the Sherman iron ore mine that was developed there. In 1967, the biggest bonanza from the railway's point of view was the beginning of operations at the Texasgulf property in Timmins.

The mid 1960s saw the beginning of what was to become the famous Polar Bear Express, an excursion train running between Cochrane and Moosonee. In 1964, the twice-daily passenger rail service was reduced to a once-a-day operation.

Moving on: In 1971 norOntair, the fledgling airline, went into operation based on an entirely new concept of having the private sector working with the government in providing a service.

In 1972, the ONTC entered into a contract agreement with the CBC and the microwave system was expanded in the Moosonee area in order to provide a more complete coverage, including colour television, to that area. In 1973, the communications system that had operated in northwestern Quebec was sold to a subsidiary of Northern Telephone.

10:20 a.m.

New railway car shops were built in North Bay during 1974 and 1975 at a cost of approximately \$6 million. The acquisition of the Owen Sound Transportation Company Limited was made in 1973. In 1975 the MS Chi-Cheemaun, a new modern car ferry, was placed in service between Tobermory and South Baymouth. The cruise ship, Chief Commanda, was launched in 1975, replacing the original Chief Commanda I, which had been operating on Lake Nipissing since the late 1940s.

The year 1977 saw the introduction of a new passenger train service utilizing European-style trains. The period 1973 through 1979 saw the introduction of direct distance dialling in the communication system throughout northern Ontario. The Moosonee Lodge, which had provided accommodation near Moosonee from the late 1930s, was sold in 1979.

Gentlemen, that is a thumbnail sketch of the commission's

history. I will call on Mr. Beatty to brief you on each of our operations individually.

Mr. Beatty: If you will relate back to Mr. Mathews' address about the start of Ontario Northland--at that time the Timiskaming and Northern Ontario Railway--you will see it originated in North Bay and moved up through to Moosonee.

This is a Noranda branch connection. You will note that we interchange at North Bay with both Canadian National and Canadian Pacific. We interchange at Noranda with Canadian National and we interchange at Cochrane also with Canadian National.

You are probably also aware that our operations are separated into two separate functions. One is the commercial operations, which include rail freight services but does not include passenger service and the Moosonee branch, the telecommunications division, bus, Star Transfer, the Hannah Bay goose camp, and the Lake Nipissing marine services.

The noncommercial services are those services that we operate for the Ontario government, for which we are reimbursed for our expenditures.

This slide shows our rail freight division. In the main, it is not unlike the earlier slides, except that it does show the connection in the Noranda division in a little more detail. You will note that the main freight products are indicated at Noranda as a copper smelter; at Kirkland Lake, iron ore pellets; at Temagami, iron ore pellets; at Iroquois Falls, newsprint; and at Timmins, zinc and copper products. We also interchange and handle newsprint from Smooth Rock Pulp and Paper from Kapuskasing.

This is a shot of two of our general purpose diesel units. There are four of these particular units in the fleet, which consists of a total of 34 diesel locomotives, and this is one of the earlier road switchers. It varies only from the previous slide in the horsepower that is developed.

This one shows the unit train that runs daily from Sherman Mines at Temagami to North Bay, at which point it is interchanged with Canadian National and runs to Dofasco at Hamilton.

This is a consolidated paper and rough freight. There are five units handling this train. The mixed units are of any type of road switcher. These are cars that are used in service for handling tree-length logs from Fraserdale to Cochrane Enterprises. There are 55 of them in the fleet and they are used mainly in the service from Fraserdale to Cochrane.

With the difficulty that was encountered by railways in the States going bankrupt, a large flow of boxcars became available for very advantageous lease and ONTC leased 75 of these cars to augment our fleet which utilized its service between Texasgulf and international points.

This is one of our latest cabooses. We have eight of this particular style of caboose. The caboose fleet totals 26 at the

moment at 26. These cars are part of a unit train sulphuric acid movement, originating at Texasgulf and bound for Courtright.

This is a flatcar that Ontario Northland developed for the handling of vehicles between Cochrane and Moosonee. It has proved rather advantageous in that people can plan their automobile movements. You are probably aware that there are a great many more automobiles in Moosonee now than there were 15 years ago. An automobile was kind of a novelty then.

This car is a rule instruction car that is used for the instruction of running crews, maintenance of way, and any personnel who have any association with operating rules. We also utilize that car for eye tests.

This is a trackmobile--just to give you a general idea of some of the equipment that we have. This vehicle is used for switching in the car shop. It is operated by one man, thereby releasing a full yard crew.

This particular machine is called a speedswing, for want of a better name. You will note that it is on or off rail. It is utilized for the handling of rail, particularly if it is continuous welded rail. Rail is normally laid during summer months. There is an attachment that we use on the front end of that particular machine and it is utilized for snow removal during the winter months.

10:30 a.m.

The original Ontario Northland building in North Bay was erected in 1905, I believe, and the balance of the building was added to it some time later.

This is a view of the shop complex at North Bay, the car shop, the diesel shop, and a portion of the yard. This shows a closer view of the car shop which Mr. Mathews mentioned.

This is a paint and grit shop. The rolling stock goes into this bay. The paint is removed by grit blast and then it is moved over into this bay for final paint.

This is an interior view of the coach shop and freight repair shop. There are several views of this. You can just glance through them now if you wish.

This is another view of a part of the interior of the shops. And likewise, these two tracks are normally used for what we consider to be the running repairs where the car moves in for light repairs, wheel changes and then is moved out as quickly as possible to move to destination, whereas the earlier shops were of equipment that would normally be in there for longer periods of time and undergo full repairs.

This is a repair shot of one of our 1700s that had a little mishap and moved into the car shop where it would be close to the labouring force where they are rebuilding the nose of the unit.

This is an exterior view of the diesel shop. We were not able to give you interior views because of the particular lighting in the shop and the amount of time we had.

This building here is what is known as a wheel shop where we perform all wheel turning, axle turning, and rebuilding of roller bearing trucks for freight service.

This is another view of the same shops, and you will note that you can distinguish the difference between the original shop and the extension that was put on within the last year.

This is a view of the wheel bay, and it gives you a little further view of part of the complex. This is the power house. Our air compressing and heating units are in that particular building.

This is a view of Sherman. It gives you a fair idea of the size of Sherman's operation and it is an essential part of our survival.

This is a sister of the Sherman operation. This is the Dane operation. In general, the two mines both produce pellets, the Sherman mine using a different process than the Dane, but the amount of product that both ship are by and large about the same.

This is the paper mill at Iroquois Falls. It also is one of our prime customers.

This is an overhead view of Noranda Mine smelters. Noranda Mine, at one time, was just that. It was an operating mine but the mine is now pretty well used up and is mainly used as a smelting process.

This is Texasgulf; these are the two shafts that are now utilized for the mining of ore. You can see that originally when it was started it was open pit mining. You can see how they used to have to circle to come up out of the pit with ore and when it reached a certain level, it was then decided that they would have to sink shafts. You can note that on the upper level there is the Texasgulf equipment loading. It is not our equipment; it is Texasgulf, loading raw ore to go down to the concentrate.

This is a shot of their facility at Texasgulf. There is Highway 101 in that view and we are, in fact, just inside. We are not very distinguishable in that picture. This also is one of our prime customers. The ones that we have illustrated, the iron ore mines, Texasgulf and the paper mills are, in fact, the backbone of our freight operation.

This is the rail passenger service. You will note that the Northlander, the European train, is depicted in yellow, the conventional train in blue and the Via trains in red. The Northlander train is completely under Ontario Northland control and operates between North Bay and Toronto on Canadian National lines and from North Bay to Timmins on Ontario Northland lines.

The night train, or the conventional train, is under the control of Via between Toronto and North Bay and under control of

Ontario Northland between North Bay and Cochrane. You will note that it then falls back into Via hands and operates from Cochrane to Kapuskasing. The Moosonee branch from Cochrane to Moosonee, of course, falls under our control for passenger services.

This is a type of diesel unit that is employed in passenger service. It is an engine that is suitable for freight or passenger and, as a matter of fact, it is one of these units that you will note later as being placed in service on the Northlander.

This is a picture of one of our standard passenger-carrying cars. We have 31 various types of passenger cars in our fleet, not counting the four Northlander train services.

This is the European motor power that originally came with the European TEE train or Northlander train sets. We encountered a great deal of difficulty and expense trying to maintain European power. As you are probably aware, a transition took place in Europe from diesel to electric power and that was one of the reasons why it was removed from service.

We have here a North American engine similar to the 1510 that you saw. It fits well into the scheme of the unit train concept. The maintenance is much less than European and, of course, parts are readily available in Canada.

This is just a picture of the station and office facilities in Cochrane. You can just note a part of the Polar Bear equipment on the west side of the station.

10:40 a.m.

This is the Polar Bear excursion. I think it was rather by chance that the same motor power appears on the head end of that particular train. That train stopped at the canyon for passengers to utilize some time to take shots of the hydro installations.

This is a summer scene at Moosonee. We will show you a later shot of the same country in the winter.

This is just a shot of the connecting service between the Moosonee excursion on the mainland and the movement to Moose Factory.

This is our same location in mid-winter.

This is the general outline of our telecommunication system. You will note that the microwave towers owned by Ontario Northland Transportation Commission are clear and the towers rented from others are indicated in black outline. There are approximately 40 towers on the system, and we go as far north as Attawapiskat. There are very minimal sections of ONTC telecommunications that still utilize open wire.

This is an ONTC tower and the equipment building at North Bay. This is just another shot of a free-standing tower.

This is the telecommunications main building in Timmins.

This is a shot of the original board that was utilized and was familiar in the telecommunications industry where girls sat at a board and accepted your calls. It was a discourse between you and the operator.

This is the system that is now in Ontario, or at least in the Ontario Northland, where the girl is separated from the balance of the girls. She has CRT in front of her. It is a fairly--to our knowledge, it is the most modern type of switching service.

This is just another shot of some of the equipment the girls use.

This is the long distance calls for the purpose of billing put in on tape, and this is just a part of the wiring on the system.

This is the battery stand-by system. In the event of a power failure, the battery power takes over and the system runs on without interruption.

This is a bus service system, as the chairman outlined, where we run from North Bay through to Hearst, touching at all main points on Highway 11, from Timmins through to Wawa, Sault Ste. Marie, and Timmins through to Sudbury. These circles with the black dot indicate that at those points we interchange with other carriers. In other words, it is a through service. Our drivers come off and the first three interchange with Gray Coach, Voyageur or Greyhound.

This is one of the fleet of buses. They are all of the same general design. There are 21 in the fleet at the moment. When we interline with other buses, not only do we make a physical connection, but we do interline buses between companies on a mileage basis.

This is a bus garage at North Bay. This part of the building is devoted to purchasing and the mechanical division, and our mechanical drafting office is on the ground floor. You will note that there is an interline bus alongside one of our own.

This is Star Transfer Limited, operating from Toronto through North Bay, Timmins, Cochrane, Hearst, on Highway 11. Then from Timmins through to Sault Ste. Marie and from North Bay, Sudbury, Timmins.

This is a shot of the garage terminal in Toronto. This is the maintenance facility, also in Toronto.

This is the main office building in Timmins. This is the dock area in Timmins. This is a so-called city truck utilized for delivery of goods in Timmins and Toronto. This is a flatbed unit for handling freight that can stand exposure to the weather, if necessary.

Would you just go back there a moment, Don, please? I should mention that we have approximately between 65 and 67

tractor-trailers, 50 city trucks, and between 110 and 115 trailers in Star's fleet.

This is norOntair's circuit. From its early beginning, it now touches 20 points in northern Ontario. We make connections at points, such as North Bay, Sudbury, Timmins, Sault Ste. Marie, Thunder Bay, with Air Canada and Nordair.

This is the unit that is utilized by norOntair. It is a Twin Otter. There are eight being used. In some instances, it has just about outgrown its capacity.

This is where the air and marine staff are housed and where this building is attached to the main Air Canada building at North Bay. This fellow is in the nerve centre of norOntair. With this machine he has the capability of getting into Air Canada's computer. He gets information concerning weather, flights that are delayed, flights that are cancelled, and he's in touch with the pilots throughout the system.

10:50 a.m.

This is our marine services at North Bay that operates between North Bay and Dokis Bay. This is the Chief Commanda II. It is a catamaran-type vessel. This is a barge that operates between North Bay and the various cottages and outfitters that are located on Lake Nipissing.

These are marine services at Owen Sound between Tobermory and South Baymouth. This is the Chi-Cheemaun. This gives you a view of how this can be moved upwards and the ramp drops down so that trucks and automobiles can drive on board. It's capable of handling 114 vehicles and about 550 passengers.

This is Tobermory. The vessel is coming in there. This is the general public lineup on these lanes for movement on to the vessel.

This is the same type of arrangement, only this is at South Baymouth. It's a little smaller and we really should have a little larger.

This is the James Bay ferry between Moosonee and Moose Factory. And this is the vessel that's used at Moosonee. The passengers are in this area or, if it's a good day, on the outside.

Mr. MacDougall: If I can take you through each of our operations, gentlemen. As Mr. Beatty has pointed out, we have divided all of our operations up into 12 different categories, commercial and noncommercial. In a total overview, last year in 1979, our gross revenues were \$67 million, our expenditures \$70 million and our loss before what we call other charges was \$2.5 million.

I would like to pay particular attention to this item. It's a special pension payment, and this is our obligation to keep our pension up to date, due to the unfunded liability that was accrued

to it between the time it was started in 1939 and 1965, when the new Pension Act required us to keep it viable. That payment to the fund now is \$4.8 million. The unfunded liability is approximately \$50 million. As we go through the other slides, you'll see that we have apportioned a portion of this to each of our operating divisions.

Mr. Sterling: Does the revenue from your operations take into account the noncommercial operations as well?

Mr. MacDougall: Yes. This is everything at this point.

Mr. Sterling: And that also takes in terms of the expenditures for the noncommercial?

Mr. MacDougall: Yes. I've broken each of them down in subsequent slides, but everything is included here. After these other charges, our net loss before reimbursement from government for those noncommercial operations was \$10 million.

Mr. Kennedy: By reimbursement, do you mean grants?

Mr. MacDougall: Grants, subsidies.

Mr. Kennedy: It's not for services rendered.

Mr. MacDougall: In effect, yes. It's the amount we recover from passenger service or operating norOntair, this type of thing. This is what we got \$10 million from Ontario and \$3.4 million from the government of Canada, so that the net income from all of our operations, after reimbursement, was \$3.7 million.

If I might now just deal with freight operations. Last year we handled 66,700 cars, five million tons of freight, and a total carload freight revenue of \$12 million. Most of our revenue in carload freight comes from these 10 commodities: iron ore accounts for 21 per cent of our revenues; newsprint 17 per cent; copper, and so on. You can see from this how dependent we are upon a relatively small number of shipments in producing our carload freight revenue.

In terms of passenger statistics, our conventional trains between North Bay and Cochrane, we handle 50,000, Cochrane to Moosonee 20,000, on the Englehart to Rouyn branch 3,000 last year. The Northlander train has approximately the same number of passengers as on the conventional, and our Moosonee excursion train in 1979 was 27,000 people.

Mr. Sterling: Is that increasing or decreasing?

Mr. MacDougall: The Moosonee excursion train was a considerable increase last year. The year 1980 has come back down to around 23,000, I think.

Mr. Kennedy: Could we just go back on the freight one in the previous line from the commodities handle? What finished products, or whatever, what proportion is that? For instance, that is all raw material.

Mr. MacDougall: Yes.

Mr. Kennedy: What about manufactured goods and commodities, it is 21 per cent, I presume--

Mr. MacDougall: Very little, yes. It would be included in here. Newsprint, I suppose you could consider it to be a finished product at that point. Copper ores and concentrates still have to be forwarded on for smelting.

Mr. Kennedy: But commodities moving north, manufactured goods are--

Mr. MacDougall: Very little.

Mr. Kennedy: Very little.

Mr. MacDougall: Gasoline would be one. There are a lot of chemicals that move up for the paper mills and this type of thing. The manufactured goods are mostly handled by trucks today.

On combined rail services, if we might deal with just rail services in total first of all, \$34.6 million of revenue, \$40 million expenses, and a net loss of \$5.7 million. Here we have allocated part of the pension interest, about \$4 million out of \$4.8 million we have charged against the rail operation.

General expenses: These are expenses which the railway initially absorbed and which we have taken out of here and put into the other operations. It is a relatively small figure.

So our total loss of \$9.5 million from rail services, \$13 million was reimbursed from the government, and we have a net income of \$3.8 million from rail services only.

Mr. Sterling: How much of that is related to the passenger and--

Mr. MacDougall: If I might, the freight revenue is \$29 million. Remember there was \$28 million in carload, but there is \$1 million of other things that happen in rail not related. So there are \$29 million of gross revenue, and out of that we figure we make \$4 million, as rail only. The express business, we gross \$1.3 million, but it is a loser. We lose \$3.8 million on that.

Mr. Beatty: That's rail freight.

Mr. MacDougall: Pardon me? On rail express. Oh, this over here? Rail freight, yes.

On rail freight we make \$4 million minus about \$400,000 that we lose on express. So our commercial rail services netted about \$3.5 million or \$3.6 million.

On the passenger services, the Cochrane to North Bay passenger train, that is the conventional train, the overnight train, our loss was \$3.5 million, all of which other than \$1,000 was reimbursed to us by the province.

The Noranda passenger train, because it is interprovincial, is a federal responsibility. It would appear here that we did make a profit last year, but we lost \$666,000. The federal government paid us for about three years prior. So in 1979, we got a lot of prior years' revenue from them. It would appear cash basis last year we made \$366,000. This is a federal responsibility.

The Northlander train which is the day train, our responsibility from Timmins right through to Toronto, there is assistance only Cochrane to North Bay. This one is Timmins all the way to Toronto. The loss was \$4.2 million; \$1.7 million was recovered from the province, and \$2.3 million from the government, for a net loss of \$114,000. We still expect to get more from the government of Canada for 1979, which will wipe this out probably in 1980 when they catch up on their accounts.

11 a.m.

Mr. Sterling: Have you ever calculated the loss in the three areas in terms of passenger miles, loss per passenger mile?

Mr. MacDougall: Yes.

Mr. Sterling: Which is the greatest loser in that area?

Mr. MacDougall: Per passenger mile? I am sorry. I have not got it in passenger miles. I have it per passenger. But this train over here would be the greatest loss as far as passenger miles is concerned. The equipment is old and much harder to keep up compared to the renewed Northlander. But it would certainly be the larger of the two.

This is the Moosonee branch. This includes all services. It is a triweekly service during the 12 months of the year, plus the excursion train in the summertime. So there is passenger and freight and express included in here. This is the total operation between Cochrane and Moosonee.

The total revenue on that branch for the year is \$2.2 million, expenditures of \$5.6 million, and the net loss of \$3.5 million, their portion of the pension interest is \$600,000, for a total loss of \$3.9 million, \$3.8 million of which was recovered from the province for a net loss to the ONTC of \$111,000.

The telecommunications branch Mr. Mathews has referred to. It was back in 1912 when we first entered into an arrangement to use our services for long distance. Today the communications branch is a significant part of our total, \$16.5 million of revenue, and with a net income of \$3.7 million.

In bus services, the revenue of \$2.7 million, a net income of \$125,000--when we associate some of our general expenses, \$48,000, to this operation, charge them about six per cent of the pension deficit, they end up in a very deficit position here, \$168,000. Notice they handle 233,000 passengers in relation to our other operations--the train for instance--the bus numbers of passengers handled is quite a bit higher. Miles operated is two million.

I might point out the bus operation also conducts tours throughout North America for people out of the north country, as well as providing the highway service in the north. From an operating point of view, it is still a moneymaker for us of \$125,000.

The marine services in North Bay, that is the Chief Commanda, is a commercial operation and is one of our losers on the commercial side, \$193,000 gross, for a loss at \$75,000 from operation. Again, when we allocate some of our overheads to it, the gross loss is about \$104,000. About \$25,000 of that would be depreciation, but nevertheless it is still a loss. It handled 22,000 people last year and slightly less than that in 1980.

Our tourist facilities--I was pointing out earlier the Moosonee lodge which had operated in Moosonee for 40 years, I guess, was sold last year. It had a book value of about \$200,000. We sold it and we had a book loss on that of \$96,000. So it is no longer part of our operation.

The Hannah Bay Camp operation is a goose camp that we operate out on James Bay for about six weeks of the year. It is a nice little moneymaker for its size.

Star Transfer Limited, which again is a commercial operation, but which had a loss in 1979 at 1,136,000 hundredweight handled, truckload shipments of 4.3 a hundredweight, and operated about four million miles. So it is quite a size operation.

Those revenues of \$7 million had a loss from operation at \$467,000; they get charged interest \$237,000 and they had some marketable securities to get written down for a net loss of \$838,000. Notice there is no pension interest here. They got charged independently for any deficits on their pension fund.

Now we are into our noncommercial operations, the ones that are funded by the government over and above the passenger service. Last year, norOntair flew 1.8 million miles and handled 110,000 people. It had a gross revenue of \$3.2 million, a loss of \$768,000, some interest, spent \$792,000. In relation to the passengers handled there is a contribution of maybe \$8 per passenger subsidy to this outfit. All of this was reimbursed to us by the provincial government.

The marine services at Owen Sound, that is the Chi-Cheemaun, the car ferry, handled 241,000 people last year, 70,000 automobiles, 7,000 trailers and 5,800 trucks.

Mr. Kennedy: Is that an increase?

Mr. MacDougall: Yes, they have experienced an increase each year since they started. This year it has flattened out more than it has in the past, but nevertheless each year saw a little bit of an upturn. In gross revenues, \$3 million, had a net income from operations of \$363,000, some interest expense, so they had a net income of \$356,000, all of which was returned to the province. I might point out this does not include any depreciation or cost of the original vessel; this is strictly from operations.

Mr. Sterling: How much is that vessel worth?

Mr. MacDougall: The vessel itself was about \$8.5 million when it was purchased.

This is the Moosonee ferry, the landing barge you saw on the previous slide with the truck on it. It had a gross revenue of \$50,000 and an operating loss of \$61,000, and again it was all reimbursed to us from the province. This will be its third year of operation.

At the remote north facilities at Fort Severn, our most northerly point, and Winisk, we provide some diesel-generated power for those two communities and some of the installations there. We had a loss of \$103,000, again all reimbursed to us by the government. At Winisk we have a communications satellite connection with the satellite there to provide communication to the town of Winisk. It had a loss of \$221,000, again supported by the province.

That was 1979. For 1980, gentlemen, the same figures again. This year we had a profit expected of \$3.7 million; we expect this year about \$3.8 million. The results to the end of August indicate that we are doing much better than this and we will probably have a profit in the area of \$6 million to \$6.5 million before the year end.

Are there any questions in regard to the slides? I think that concludes the presentation.

Mr. Chairman: I want to begin with some questions which I think you already have which were prepared by our research people. In going through an outline of your operations you had made some divisions of your own and some recognition that some part of your operation is really a commercial enterprise and part of it is really operated on a different basis.

Some of our questioning centres around the operation of Star Transfer. Would you kind of go through that for us a little bit and give us a rationale as to why you are operating Star Transfer?

I am aware that there has been some discussion from time to time that Star Transfer should be sold, it should be privatized, whatever. Could you give us a little background on that as to why you are in that field, should Star Transfer be sold, should it be retained as part of Ontario Northland? Could we get a little fill-in in that regard?

Mr. Mathews: Mr. Chairman, maybe I could help the committee in that regard. When Star Transfer was purchased there was one only licensed carrier serving the area which is now served by Star Transfer, creating a monopolistic situation. It was the thought of the government of that day that this was not in the best interests of the people of northern Ontario, hence they got into the highway transportation business.

That, of course, served a very useful purpose for many years and it is only recently, when the government in their wisdom saw

fit to allow additional carriers and to permit deregulation, that Star has, in fact, become unprofitable.

11:10 a.m.

After a very careful examination by the commission, gaining reports from our senior management people, the commission early this year recommended that Star Transfer be sold and requested the ministry to whom we report to conduct an investigation into all the various things that would happen in the event that we did see fit to sell Star. This is going to be an ongoing thing probably for some months yet.

We have to bear in mind that there are still many communities that are served by Star that still do not have an alternative means of receiving goods and these things all have to be worked out prior to the final decision being made. I might say that that discussion and those studies are sort of an ongoing thing, both between our management people, the commission and the Ministry of Northern Affairs.

Mr. Chairman: Can you give us some explanation as to what happens to a community which does not have an alternative service if this termination of Star Transfer proceeds?

Mr. Mathews: If they are not on a rail point and they do not have an alternative means of highway transportation, it simply means they have no means of receiving or dispatching their freight goods.

Mr. Chairman: Surely that is an unreal position to put those people in? They have got to have some form of movement of goods. What provision are you putting in place then to take up the slack?

Mr. Mathews: As I said, Mr. Chairman, at the moment these are the things that we are studying. We have not actually put anything in place because Star is, in fact, still operating.

Mr. Chairman: In the process of selling, if that proceeds, what do you do with a rather remote community that needs that kind of service and nobody in the private sector is prepared to move in and pick it up? You obviously cannot abandon these people. Are you talking about retaining some aspect of Star Transfer that would go to a community that does not have a private operator?

Mr. Mathews: In my opinion, this will be one of the main deterrents from the sale of Star, the very fact that we do have to do exactly what you said; someone has to provide and guarantee that the people in such a community would have service.

Mr. Chairman: So the upshot of it all may turn out to be that Star Transfer stays in business in some form, but all it does is take on the losers and the private sector takes on the winners.

Mr. Mathews: Exactly.

Mr. Chairman: That does not seem terribly sensible to me.

Mr. Mathews: It does not seem very fair in my opinion, either.

Mr. Sterling: Could I ask a supplementary in that area? You mentioned there are now other licensed carriers and there was only one when Star went in. How many points now are not being served by another carrier? Are they numerous? In other words, is Star providing services to many areas now which do not have another licensed carrier?

Mr. Mathews: There are several, yes, west of the Timmins area mainly.

Mr. Kennedy: Are these nonprofit for sure? Would the private sector move in?

Mr. Mathews: The only way they would move in would be if they were forced to by legislation and how are you going to do it?

Mr. Chairman: Can I pursue this a little bit about where you are now with Star Transfer? It would strike me that some rather dumb things have happened. By deregulating the industry in that area you have in effect taken away the monopoly which Star Transfer once had. A monopoly sounds like a bad thing except it enabled an operation to function in that area and provide service which nobody in the private sector wanted to do. Now you're kind of hung up on the hook.

There's some deregulation at work so that those operations which carried Star Transfer and perhaps helped to balance the books at one time, you are raided in that sense, and you're very liable to be left with nothing but a loss position. How the hell do you continue to function if your good points have been taken away, and you're left holding the bag for all of those things which operate at a deficit.

Mr. Mathews: Obviously, if that situation that you have described escalates, then it's pretty obvious that we're going to come back and ask you to help us with it. If you are going to insist, as a government, that we operate Star Transfer on a profitable basis under the conditions which you have described, we are going to be right back knocking on your door.

Mr. Chairman: In all of your operations I noticed that there was a heavy emphasis--that there is, first of all, a careful split between those things which you run as a commercial enterprise, and those things which I guess would be fair to say, you run as kind of a public service. You are very careful to delineate that.

And secondly, I noticed that you were very careful as well to outline those areas where you clearly think governments, at the provincial and the federal level, ought to pick up the tab. You had a very good breakdown in there of services which you provide which obviously run at a loss. You simply keep track of the loss

and then you go to the governments and say, "Pick up the tab."

In the case of Star Transfer, would you be thinking of the same thing? That you would run the service all right, and you would just run the tab up and at the end of the year say to Ontario, "Here's the tab for running that service"?

Mr. Mathews: At the present time that certainly doesn't exist, because it is considered a commercial operation and we are very concerned with that.

Mr. Chairman: So roughly, all you would be doing is saying: "Okay, you guys changed all the regulations and let everybody else in the field participate in this process. Here's the tab for that deregulation."

Mr. Mathews: I suppose if it ever comes to the point where you are going to insist that we do the things which you described, then that would be the obvious conclusion that we would come to.

Mr. Chairman: So all you would be doing then is saying, "Here's the price for your own stupidity."

Mr. Ruston: Have you got more questions on Star?

Mr. Chairman: No.

Mr. Ruston: Apparently you do not have a route between North Bay, Sudbury and Sault Ste. Marie. Star does not have that.

Mr. Beatty: That's an old plan you have there.

Mr. Ruston: Do you have hauling rights now on Highway 17 between Sudbury and Sault Ste. Marie? I'm sure of that.

Mr. Beatty: We go to Sudbury.

Mr. Ruston: Yes, you go to Sudbury. But I thought it showed going from Sudbury to North Bay but--

Mr. Chairman: Why don't you have a route on Highway 17? It strikes me if I was operating a transport business in that area, that's one I would love to have.

Mr. Ruston: Well, that's what I'm wondering. It would seem to me--

Mr. Chairman: As a matter of fact, if I really wanted to make it a going enterprise, I would be running the route along Highway 17 that would probably allow me to provide all kinds of services into the hinterland there.

Mr. Beatty: As you are probably aware, a great many carriers with the same thought in mind are also in there, and if one more moves in, the pie just has to be split between another carrier. To know whether or not it would be advantageous for Star to move in there, someone would have to survey the market, but at

the moment there are a great number of carriers moving into Sault Ste. Marie.

Mr. Chairman: Let's move on then to another area--

Mr. Sterling: Could I ask another question? The rates that you're charging in terms of Star, has the rate of increase gone up more slowly in the past? In other words, because of the increased competition, is the shipper getting a better break in terms of the cost of shipping his goods?

Mr. Beatty: I would say yes, that's a fair assumption.

Mr. Sterling: So that the competition in fact is doing something positive in terms of cost to the northern producer, or whatever.

Mr. Beatty: I don't think there's any question of that.

Mr. Sterling: So that, in effect, it's not all a downside situation. You mentioned before that the problem pickups would be the ones west of Timmins, is that right?

11:20 a.m.

Mr. Mathews: Yes, we have areas west of Timmins where there would be problems, but which we are currently serving, across that Highway 101 corridor.

Mr. Sterling: So Chapleau and Wawa would be the ones which you would--

Mr. Mathews: Not necessarily Wawa because they would be served off Highway 17. Chapleau would certainly be affected, as is Foleyet. Those are two of the more important ones, plus all the numerous little communities that are incumbent upon those highways.

Mr. Sterling: What about Kapuskasing and Hearst? There is somebody else going up there as well.

Mr. Mathews: Yes.

Mr. Sterling: But you are the only ones going into Foleyet and Chapleau at this time. Is that correct?

Mr. Mathews: That is, public carriers. To the best of my knowledge.

Mr. Chairman: Just for interest's sake: What is the price tag for the current fad of deregulation so far this year? How much has that move cost you?

Mr. Mathews: I wouldn't have a figure on that.

Mr. Chairman: What kind of deficit are you planning on running up at Star Transfer this year?

Mr. Mathews: It will be a deficit similar to last year's.

Mr. Chairman: Which was?

Mr. Mathews: About \$800,000.

Mr. Chairman: So deregulation in that area has cost us pretty close to \$1 million this year?

Mr. Beatty: I don't think you could tie that all through deregulation.

Mr. Mathews: No, I don't think so.

Mr. Beatty: I know there is more competition from carriers, Dominion Consolidated, Manitoulin. They are now operating up through that country, so they get their share of the product without deregulation at all. But deregulation in it is just another bit of weight to the loss.

Mr. Chairman: In running through that list of operations that you run, it would appear there is certainly room in there to contract out, terminate, cease operations. Could you give us some concept of where these things might occur?

Obviously, you are running some things at a deficit, some of which might be picked up by the private sector; obviously, some of them won't be. Do you have a game plan for the next five years so that certain kinds of operations will be terminated or contracted out or whatever might happen to them? Do you have that kind of projection?

Mr. Beatty: As general manager I would be dependent on policy direction from the commission. We did have a small venture into that field with the Chief Commanda II. But the contractors wanted the vessel as a gift. They did not want to contract and operate it, so we ended up operating it ourselves.

In the case of Star Transfer Limited, there is no possibility of contracting it. The size of it would be a factor that would make it almost impossible to contract.

The very first thing one runs into in contracting, as a general rule, is a labour problem. That in itself in this day and age is a factor to be contended with. What policy the commission might have in mind, the chairman would have to address that.

Mr. Chairman: Would you take a shot at that?

Mr. Mathews: Certainly, I would be prepared to do that.

I think we have covered Star, so can we move on to the--

Mr. Sterling: Could I just ask one more question about Star? It seems to me that there is just a very small portion of what Star is covering that would not be covered by public carriers by looking at the map of the various areas you do cover.

Why would Star not stay in existence just to serve, as a noncommercial enterprise, those areas which are not commercially viable, and then free the rest for the--it does not seem to me it would cost \$800,000, maybe you can correct me on this, just to run to those areas. Would it cost that much? If you are losing \$800,000--

Mr. Mathews: In answer to your question, and in all fairness, I would have to go back to what I said originally. The commission made a recommendation that Star be sold and that it be investigated. While that investigation is going on, I would hope that the very thing you mentioned would be one of the things that would have to be studied and looked at. Because the chairman has pointed out to us, obviously we cannot isolate communities and leave them without service. An alternative you are suggesting might be that we would make an arrangement with someone in the private sector for them to serve, or whatever.

These are all part of the investigation. So it would be premature on my part to say to you that, yes, we are prepared to do this, or the commission is prepared to recommend a certain course. Until we get the reports in and have an opportunity to sit down and discuss them and study them, I really cannot see where we can take any other course other than the one we have before us.

Mr. Sterling: I was just wondering if you were familiar with the economics of doing something.

Mr. Mathews: Not at all. I hope that would come out in looking at it.

Mr. Kennedy: Could I just ask a couple of supplementaries on that? This commission that is working on this inquiry now: When did they start and when are they expected to finish? Is there a termination date set or is an ongoing saga? Do you know about that?

Mr. Mathews: No. I quite honestly don't know.

Mr. Chairman: That is an interesting question. Who is doing that?

Mr. Mathews: The Ministry of Northern Affairs will be the ones who will finally put this all together for us and they are gathering the information, together with ourselves.

Mr. Chairman: Out of all that vagueness, who the hell is it? Does anybody know?

Mr. Mathews: Our management people certainly are providing as much of this information as we can. We sit down periodically with the ministry and assess--

Mr. Chairman: I am always interested as to who does the research and the background on this kind of stuff and who makes the recommendations. It is always very difficult to find out exactly who it is who's making these critical decisions. You don't know?

Mr. Mathews: No. All I can tell you is that, beyond the recommendation of the commission itself, just a specific person is doing it, no, I can't tell you.

Mr. Kennedy: Mr. Herridge, could you enlighten us on the makeup of that group?

Mr. Chairman: Yes, if you want to, just come up here for a minute.

I simply want to pursue this line a little bit though. For example, in this group of people who are looking into the matter of Star, are the people from the communities involved in this? What I am trying to get at, is is there some bureaucrat down here in Toronto who is going to decide the future of Star Transfer?

Mr. Mathews: I can't tell you that.

Mr. Chairman: You don't know. Do you know if people from the communities are involved in the recommendations which might come out of that?

Mr. M. Davidson: Are they having any input, I think is what he's asking.

Mr. Chairman: It's kind of hard to have input if you don't know who is doing the output.

Mr. Mathews: I can tell you this. Yes, some of the communities are very concerned with the direction that Star is taking.

Mr. M. Davidson: Are they expressing those concerns?

Mr. Mathews: One community has expressed their concerns to us, yes, to me.

Mr. Kennedy: I wonder if Mr. Herridge might be able to answer.

A.J. Herridge, sworn.

Mr. Chairman: Can you fill us in on what is going on here?

Mr. Herridge: The chairman of the commission has indicated that the commission came to a certain decision with respect to Star Transfer and submitted its recommendation to the Minister of Northern Affairs (Mr. Bernier), who is the minister through which the Ontario Northland Transportation Commission reports to the Legislature.

The minister directed staff within the ministry to start doing analysis of the recommendation, its implications, and coming at it from several different points of view, one of which is the economics, which are not hard to grasp, as was presented to you by Mr. MacDougall.

Some of the other implications of the recommendation are the

maintenance of service to these communities--again, as Mr. Mathews has pointed out--how they would be served or would not be served in the event that Star Transfer was disposed of as a crown operation.

11:30 a.m.

Another element is the effect on the employment levels in some of these communities of the one, two, three or however many persons are employed by Star Transfer in operating the freight delivery, express, pickup and this type of thing.

There are many social implications as well as economic implications, so this analysis is being carried out with staff of the ministry in attempting to identify the pluses and minuses in all regards with respect to the implications of the recommendation to dispose of Star Transfer.

Mr. Chairman: Has the ministry gone through the communities and held any kind of public session in order to get an idea of how the communities view the services that are rendered by Star Transfer and what their point of view would be if you moved to privatize it?

Mr. Herridge: We have not as yet. We are still in the process of attempting to trace the *raison d'etre* of Star Transfer having been acquired and its path and track record since that time through to the present set of circumstances. It results in the financial situation leading to the commission's recommendation that it be disposed of.

There is no question but that the impact on the communities will be assessed on a community-by-community basis. I would suspect that there would be opportunities provided for community input. Without pre-empting what those views would be, we could safely judge what the views would be. Nevertheless there would be opportunities provided for the communities to express their views, in all likelihood directly to the commission rather than the ministry.

Mr. Chairman: When did you first acquire Star Transfer?

Mr. Mathews: In 1960.

Mr. Chairman: So 20 years after you got it, you are trying to figure out why you got it.

Mr. Herridge: No. We are trying to understand the rationale for its having been acquired and what its track record has been since that time.

There is little to be gained at this point in challenging the wisdom of that particular judgement. It is rather to attempt to place in today's context the purposes that were deemed appropriate for its acquisition at that time. In other words, can that level of competition and service that was to have been achieved with the acquisition capable of being delivered in the absence of Star Transfer?

Mr. Chairman: In the process, have you got to the point where you are able to determine which of the services rendered by Star Transfer are profitable and, it might follow, would be turned over to the private sector, and which ones continue to operate at a substantial loss and would probably continue to function under the government?

Mr. Herridge: Not as yet. We are still looking at Star in a macro sense. We have not yet got down into partitioning, if you will, for those parts of the service that could quite readily be disposed of to the private sector, and those that would likely reside with government through either direct operation or indirect subsidy of a private operation. We have not got to that point yet.

Mr. Chairman: But it is likely that is where you are going. At some point in time you will decide that the operation of Star Transfer in these communities is profitable, so get rid of them, and the operation in those communities is operating at a loss and probably well forever, and if we want to continue the service, we will have to pick up that kind of a tab.

Mr. Herridge: In my mind, it is not a question of those to be disposed of are necessarily or simply those that are profitable. It might rather be whether the needs of the public or the shippers would be as well served by the private sector, and could be met without there being in existence a Star Transfer.

As well, what about the service needs of those communities that would not likely be served by a private shipper? So I don't think it is not a question of it turning on profitability of components.

Mr. Kennedy: The recommendation of the commission is an integral part of all these studies, and I would say it is very important when you key in on it. Their recommendation is to dispose of Star and put it on the market. But do you have these other factors that you have described as important parts of it as well?

Mr. Herridge: The recommendation of the commission obviously was the starting point for an analysis of the total Star operation, which is the exercise we are currently involved in. The sectoring of it is not a part that we have got to yet.

Mr. Chairman: Is there not a bit of a bias in this whole thing when the agency responsible is saying, "We want to get rid of this one," and now you are trying to figure out what is the most polite way to do it?

Mr. Herridge: Whether you interpret it as a bias or a question of responsibility is a matter of definition, I suspect. But the government stands answerable for the operations of the Ontario Northland Transportation Commission.

There would be little doubt in my mind that if the Star Transfer was disposed of rather hastily because of the recommendation of the commission, and for reasons that on the

surface at least make eminent sense in dollars and cents, the outcry from these communities, all of them in all likelihood, both from the standpoint of the staff and labour that would be affected, as well as the levels of service that would be affected, the government would be having to answer to this kind of outcry, to give a justifiable response or reaction.

In anticipation that that might ultimately happen, it seems to me prudent that the analysis and homework be done beforehand, to try to see the extent to which the employment situation is not adversely affected and that the service levels are taken care of by some device or other.

Mr. Chairman: Mr. Mathews, can you outline something for us? In going through your presentation and research, it is obvious that there are some areas here where it is not reasonable to expect that you are going to turn a profit on the thing. How do you decide, for example, that Star Transfer ought to go, you have got to get rid of that one, and yet you ought to retain other ones? What is the fundamental principle that you are operating on there?

Mr. Mathews: We examine each of these operations. Are you referring to the Chief Commanda, the passenger train service and the sleeper buses outlined in the researcher's presentation?

Mr. Chairman: Yes.

Mr. Mathews: I think they are governed by the circumstances that surround each individual operation. For example, the general manager of Chief Commanda indicated to you that a year ago we attempted to go to the private sector to get an operator--unsuccessfully, I might add. At that time, we decided that we would increase advertising and would talk to the community involved, which we did. We asked for that community's support because primarily it was to support their tourist industry that the Chief Commanda operates, in addition to servicing all those people who happen to have cottages and require access to various points on Lake Nipissing.

The commission decided on the recommendation, after investigation by management, of a reduced schedule of sailing, to change the fee structure and cut down on the actual hours and that we would try it for another season. That season was just completed a week or so ago. The commission has not been presented with a final financial report, just the monthly reports. Neither does it have management's recommendations, so we have not studied it further. But the decision, whatever it will be for next year, I am not in a position to say.

Moving on to the passenger train and the thought of one train, it must be remembered that we are not alone. We have two very important factors to deal with at the moment, one of which is Via Rail. The other is the fact that we have a provincial committee studying rail passenger services and they have not completed their studies or made any recommendations. So we are left in the position of awaiting their final reports and decisions.

It has been for some time the recommendation of the commission that, based on the information which was placed before them at that time, we reduce the passenger services in the corridor between Toronto and the Porcupine-Cochrane-Kapuskasing area to one rail passenger service per day. With Via Rail taking over the operation of rail passenger services, I would naturally assume that they would look at their whole program and determine what train that might be. Again we are left in the position of not being able to move on the rail passenger service.

11:40 a.m.

We are now left with the sleeper bus. Mr. MacDougall pointed out to you that the bus operation showed a slight deficit. We examined very carefully the usage of our bus services in the corridor. It was our opinion that by the elimination of that sleeper bus service we would create very minor discomfort to the travelling public and would have wiped out that deficit. It was examined very carefully and a recommendation was made for the cancellation of that service, which was later reversed.

The energy situation becoming the uncertainty which it was around the first of this year and, I suppose, still is--I notice from the Globe and Mail this morning that I can look to pay seven cents more a gallon for my fuel today--this was taken into consideration and it was decided to continue the sleeper bus service for an indefinite period until such time as there were further indications of the direction which we really should take and until Via Rail bring in their decision. This plays a very important part in so far as our bus services are concerned.

Mr. Chairman: Could I pursue this a little bit? I am always a little confused, when we get more than one agency at work in a field, at the kind of movement that goes on. A number of people have approached me, rather bitterly, that there is not a heck of a lot of co-ordination when one agency moves in and the other leaves the field.

It would almost appear to a casual observer that everybody is looking for some larger agency to take over that part of the transportation thing. Smaller ones like Ontario Northland would say, "Air Canada is now taking over air transportation in northern Ontario." It sounds not too bad. Air Canada then takes it over and decides, "We cannot run lines at this kind of a passenger load, so we will discontinue service."

Therefore the people of the north look at one agency, which I guess in a theoretical sense might not make a lot of sense, that is, that the province of Ontario run this transportation agency throughout the north. For example, it might seem, theoretically at least, to be more sensible that the largest carrier of air passengers in the country, Air Canada, take over those routes.

That, theoretically, might not seem too bad. But somehow, at the end of the process the people who live there, for whom we are all supposed to be working, wind up with less service. As you stated, in air transportation there is Air Canada bumping around up there, in the rail system Via Rail is at work. and we have a

little commission at work here. But you are not terribly familiar with what they are going to do, and the upshot of it all is that the people we are supposed to be serving get less service.

How do we co-ordinate--or do we even attempt to co-ordinate--all of this shucking and jiving, so to speak, as we bump around a system?

Mr. Mathews: Is that a question, Mr. Chairman?

Mr. Chairman: I tried to make it a question. Do we co-ordinate any of that? What is Mrs. Scrivener's committee called? Whatever it is, what do you know about their operations, what they are doing and where they are going to wind up? Have you made a submission to them, for example?

Mr. Mathews: Yes, we made a submission to them quite early. If you are asking me a direct question about what I know about their operation, frankly I have not had the opportunity to see either a report or interim report, so I do not know at what point it is. How it affects us, I do not know.

Mr. Chairman: Are any of your staff people working in co-ordination with that task force?

Mr. Mathews: We are kept advised through our ministry as to the direction that might take if there is anything pertinent to our operation. I think Mr. Herridge is here and might be in a position to assist you in that department because, frankly, I am not familiar with it.

Mr. Herridge: I am a member of the task force and can report that in terms of a report there will be an interim report from the task force within the next four to six weeks and at this time our schedule is for the final report to be out perhaps early in calendar 1981.

As to the nature of the co-ordination with respect to Via Rail, let us talk to rail passenger services. The Ministry of Transportation and Communications and the Ministry of Northern Affairs have met with and are continuing to meet with Via regarding the terms of takeover, if you will, of the mandated responsibilities that Via has for the provision of passenger rail services on intercity and transcontinental routes.

It is the terms and conditions under which Via will take it over that are the subjects of the negotiations that are going on with Via. Obviously you would not be surprised if they have certain perceptions as to what would be appropriate terms and the province has another set of perceptions. That is why the discussions are rather protracted.

It also bears on the availability of the bus service that is in that same corridor as the rail services that are provided and at this point the chairman of the commission has indicated that the decision has been made not to cut back on bus services until there is some clearer definition of what would be available in the way of rail services.

The people in that corridor have become accustomed to a certain level of services and they have expectations that it will not get any worse than that notwithstanding economics and passenger loads.

Passenger rail is a loser across the country, I think that is evident, and governments everywhere have recognized that and are moving to try to increase the ridership and improve the quality of the riding, but it is still, in cold dollars and cents, a loser.

We are negotiating with Via now on the terms of takeover on the Toronto-North Bay-Timmins line of both the Northlander and the Northland services that are being provided. That is why the bus service in that corridor is being continued, notwithstanding the recommendation of the commission.

On the larger scene with respect to our rail services, the report of the task force will address and is in the process of developing a proposal for a policy position in respect of rail services in the province but this, as you again would recognize, runs into the federal mandate, federal responsibility for the provision of intercity and transcontinental passenger services.

If there is going to be any sharing or readjustment of the field of responsibility, it has obviously got to be the subject of negotiations between the two levels of government.

Mr. Chairman: What disturbs me about this whole process is that I see a trend developing here and the trend clearly flies against what we are now doing. We have set up in this province an agency to provide a service that obviously the private sector does not want to do.

If there was the private sector humping at your doorstep there to provide direct air service to Missinaibi we would not need the Ontario Northland, but there is not, so there is a real need to provide transportation services to people across the north. It is not a highly profitable area, to understate the case, so we have an agency set up by the province to do that.

It seems to me that everybody is kind of reassessing the role and we are kind of saying that Air Canada ought to provide air transportation, Via Rail ought to provide rail transportation, probably governments at all levels should get out of bus transportation.

That, in theory, does not sound too bad, that you ought to have one big agency providing the service, but in practice what it almost inevitably means is less service to the people who are involved. You could maybe stand that if there was a lot of heavy services being provided, but I would view, for example, what you provide now as being pretty minimal service.

11:50 a.m.

There is a service there and you can get out of the north and you can move around in the north, but there is not a lot of

choice. What concerns me is that if we bump it upstairs to the federal government, either in its new agency, Via Rail, or Air Canada, that you just take it one step further away from the individuals who are using the service.

It is a little tricky to come from the north to Toronto to argue that the Ontario Northland ought to increase its bus service or its rail service or its air service, but at least we have a minister who is supposedly responsible for that particular area of concern and at least you can get at him.

You bump that up to the federal level and these people are not competing with transportation services in the southern part of the province but they are competing with transportation services across the country and it makes it more difficult to put your case, even to be heard.

That is what concerns me. What starts out as kind of a simple theoretical exercise in practical ramifications at the other end of it, if you cut the bus service, if you cut the rail service, if you cut the air service, people have a longer way to go to even voice an opinion, let alone have any influence. That seems to be a trend and that certainly is a concern of mine.

Mr. Herridge: I think you have touched on a very fundamental point that is at the heart of the discussions--and let us stick to rail service and the extent to which it interacts with bus service in the northeast.

This is a fundamental concern of the rail task force, the extent to what rationalization, if you will, on a national scale disadvantages the more remote communities in northern Ontario. That will be a point I feel certain will be addressed in the report of the rail task force and it is certainly an element in the discussions and negotiations we are having with Via Rail in the northeast.

The province has filed objections to certain suggestions that have been made by Via Rail to withdraw levels of service and the Canadian Transportation Commission in its wisdom has in most instances supported the position of the province of objection. The reaction of the federal government is if the province wants this level of service sustained to service these communities that are on rail only, then perhaps it should consider funding or meeting some of the operating deficits.

That again gets at a very, very basic element of whose responsibility it is to service these particular communities. That, again, is a question that has been discussed and we have had presentations to the task force on this point.

With respect to air, I would hope that there has been nothing in the presentation this morning that leads anyone to feel that norOntair is withdrawing its level of service in favour of Air Canada or any other private carrier. In point of fact, norOntair's operation has been expanded to move from its present level of 20 communities into others in the next two to four years in order to improve the access of the smaller communities into the

interchange points of Sault Ste. Marie, North Bay and so on where it interchanges with Nordair or Air Canada.

If there is any trend evident in terms of air operations, it is that the Air Canadas of the world are going to be withdrawing from those areas and they are going to have to be filled by commuter carriers and that is the experience on the North American continent. The cost of fuel and the limited fuel efficiency of aircraft such as DC-9s is going to see adjustments in routes that are going to have to be picked up by other community carriers.

There is in the role of agencies such as ONTC another fundamental concern and that is the extent to which one cross-subsidizes as between those operations that "make money" and those which are provided simply because they are the only service available. That, again, is something that pervades the provision of the types of services that ONTC does.

Mr. Kennedy: Could I get a supplementary on this? I do not know whether it is your thoughts, Mr. Chairman, or whether it is evidence that has come forward with respect to the possibility of reduction of service and I will ask a specific question of the chairman. Has your commission advocated reduction of service?

Mr. Mathews: In so far as rail is concerned?

Mr. Kennedy: Anywhere, in the total service.

Mr. Mathews: Yes, we have recommended that we be served with one rail passenger service. I did not go into the conditions that surround that recommendation. That recommendation is that that rail passenger service, while it be reduced to one passenger service a day, that it be dramatically improved.

In other words, what I am saying to you is that, in my opinion, I do not think that we should offer the type of service that we are now currently offering, although I think it is competitive in the type to most rail services you will find anywhere, but I think it can and should be improved.

I think that the people of the corridor that we serve are entitled to a better quality of rail passenger service than they are now receiving in so far as one of the services is concerned. The other service, I think, is probably as fine a rail passenger service as you are going to find anywhere in Canada.

Mr. Kennedy: You are saying then that this service will be adequate for the public, you feel it will be. If there is a reduction in the number of passengers and you can serve them reasonably well with one train rather than two, then you would not really call that a reduction in services. It is a reduction in service but there is still sufficient to meet the needs, correct?

Mr. Mathews: Yes, absolutely.

Mr. Kennedy: That seems to be the point.

Mr. Mathews: That is right.

Mr. Chairman: To pursue that just a bit, the members of this committee, as a casual example, decided that it would not be a bad idea for us to take a ride on something that you run. We thought it would be a reasonable thing to expect that you could get a train out of Toronto, go to Timmins, probably to Moosonee and come back, and that might take you perhaps a day to do that. We found out that you could leave here Sunday night and get back here Wednesday morning. That does not seem to me to be first-class rail service.

Mr. Beatty: I guess I had better address that because I am the man who talked to Mr. Eichmanis. As I understood the situation, you wanted to leave on a business car with 17 people, move from Toronto through to Moosonee and back the same day.

Mr. Chairman: You cannot do that on an overnight basis, though?

Mr. Beatty: No, by and large the train you depart from Toronto on makes a connection with the Moosonee train, a mixed train, the following morning. You move to Moosonee and you spend the night there and you move out the following morning and return through to Toronto, so you are back on Wednesday morning in Toronto.

By and large, that is the type of service that is in effect for anybody, without the benefit of a special train movement, which is very costly. That is the way the average traveller would move.

Mr. Chairman: So anybody who would want to catch a train north could probably get service up there in one day and back down the next. Is that roughly what you run?

Mr. Beatty: We are talking Moosonee. It really is not as terrible as it sounds. If one jumped aboard an aircraft, of course, that is a different proposition, but by and large buses and trains move at a comparative speed across the country.

Mr. Chairman: The committee will adjourn until two and we will pick up the questioning then.

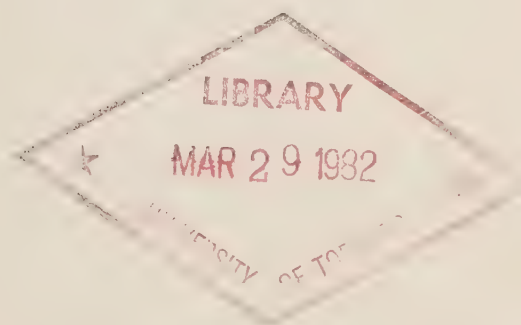
The committee recessed at 11:59 a.m.

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STANDING COMMITTEE ON PROCEDURAL AFFAIRS
REVIEW OF ONTARIO NORTHLAND TRANSPORTATION
COMMISSION
TUESDAY, SEPTEMBER 30, 1980
Afternoon sitting



STANDING COMMITTEE ON PROCEDURAL AFFAIRS

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Ruston, R.F. (Essex North L)

Sterling, N.W. (Carleton-Grenville PC)

Research Officer: Eichmanis, J.

Clerk: White, G.

Witnesses:

From the Ontario Northland Transportation Commission:

Beatty, R.O., Manager

Hohn, W.H., Assistant General Manager

Mathews, W.J., Chairman

MacDougall, D.H., Commission Secretary

LEGISLATURE OF ONTARIO

STANDING COMMITTEE ON PROCEDURAL AFFAIRS

TUESDAY, SEPTEMBER 30, 1980

The committee resumed at 2:08 p.m. in committee room No. 2.

REVIEW OF ONTARIO NORTHLAND TRANSPORTATION COMMISSION
(continued)

Mr. Chairman: I call the committee to order. I want to pursue a couple of things and then other members of the committee may have some questions.

I am not quite clear whether you have an across-the-board policy about evening up, where you might run a deficit in one of your operations. Do you have fixed guidelines about those that make a profit and moving that money back and forth?

For example, I notice that you took the pension moneys and you distributed or allocated that to some of your agencies and wrote that off against them. Yet you didn't do that to others. Could you explain how you arrived at those policy decisions?

Mr. MacDougall: The allocation of the pension funds is primarily done on the basis of the salaries in each of the individual operations. For instance, Star Transfer does not get charged any because their basic pensions are with the union.

The pensions associated with the Ontario Northland Transportation Commission pension fund is only for the management personnel who joined our pension fund, I think in 1976. At that time they funded all the previous requirements. So they do not have any unfunded liability. Generally, with our communications branch we charge them in proportion to their total payroll.

Mr. Chairman: So you have worked out a little formula which allocates against each operation to the best of your ability what that operation really owes to the pension fund; so you work it out that way.

Mr. MacDougall: That's right.

Mr. Chairman: What about this business of balancing an operation which makes money as opposed to one which loses money? How do you decide that? How do you set fees and rates?

2:10 p.m.

Mr. MacDougall: The commercial operations that lose money, the Lake Nipissing marine service, for instance, is operated with as little loss as possible. And then if it requires funding, the freight service would subsidize that particular noncommercial operation.

Mr. Chairman: Do you have a policy, for example--I

noticed one thing, on norOntair I believe he said about \$8 per user is subsidized money. How do you arrive at that? How do you decide that eight bucks is a fair thing to subsidize. Should it be \$9? Should it be \$10? Should it be zero?

Mr. MacDougall: With that particular operation the provincial government funds all of the losses incurred. That was simply a statistic saying that, on the average in 1979, the subsidy that was provided came out to about \$8 per passenger.

Mr. Chairman: How do you arrive at that, though?

Mr. MacDougall: It's an after-the-fact calculation.

Mr. Chairman: Okay, but do you start off, for example, saying that on norOntair, or the rail line, or the bus line, or anything that you run, the charge per ticket ought to be competitive in the field, or do you start off by saying, this is what our costs are and therefore the ticket will be \$25 or \$30 or whatever? How do you arrive at that pricing policy?

Mr. MacDougall: The fares for norOntair are slightly higher than what is charged in the national airlines for similar types of distances or services provided. From that then we determine what the costs of operation might be. And for 1979, as I recall, our original estimate was \$1.1 million. As it turned out the actual loss was only \$792,000.

Mr. Chairman: What I'm trying to get at is, in setting, for example, the fares for any of the services that you run, do you start off with an attempt to make the fares reflect the costs, so that in essence you would wind up with a system which is self-operating, it pays for itself?

Or do you start off from the point of view that you want your fares to be competitive with what might be the going rate for that service in the private sector and then at the tail end of the system, the government kicks in a subsidy, so to speak?

Mr. MacDougall: I think the fares are primarily established with the going fares that are in other services in Canada. Via Rail fares for instance; our fares are competitive with that.

Mr. Chairman: Part of what has me a little confused about this is that I've used some of the services you offer. For example, on norOntair flights, it strikes me that you are a bit above what you would pay for an Air Canada flight for similar services, but you're basically in the ball park. So it strikes me that in that instance, the policy of the commission has been to strike kind of a whatever-is-the-going-rate thing.

Now, in one other thing I find it rather wildly out of line, the Chi-Cheemaun from Manitoulin to Tobermory. I found that the fares that were charged there were really drastically different from what I have been normally accustomed to paying for that kind of transportation service.

If I remember rightly, I was using a camper at the time and we had done a fair amount of travelling and on ferry services of a similar nature on the east coast and the west coast. That kind of a trip would cost you in the neighbourhood of \$20 to \$30 and I think on that one, it cost me 60-some-odd bucks. So it was like two or three times what I had been accustomed to paying.

I talked to a number of other people who were using this service and I couldn't really determine what the policy was. Were you kind of user-paying the routine, that whatever it costs us to put this service in place, we just average that out and that's the price for your ticket? On other occasions though, it seemed to me that you were attempting to be competitive, and to price according to what the market was paying.

I'm still not clear which of the two is your policy.

Mr. MacDougall: I think in that one, when the service was established in 1975, they struck a rate which they felt would pay the operating costs of this particular service and ever since that time, we've increased the rates based on inflation. Even today, with the profits that that service is generating it's about a break-even proposition, about \$200,000 to \$300,000 a year, or about 10 per cent of the gross revenues.

Mr. Chairman: So you really kind of have two policies at work. In some of the things that you run, it really is try to operate on a break-even basis. And in other areas, it's kind of, "Charge what the normal rate would be and then we'll subsidize it afterwards."

Mr. MacDougall: The Tobermory ferry policy is to try to make it break even. The others are to charge a fare comparable with the other services provided in Ontario or in Canada.

Mr. Chairman: Is there any rationale for that apparent discrepancy in policies here? Why should one of your operations operate on a break-even basis and all others operate on a what's-the-going-rate basis?

Mr. Beatty: I think one might have difficulty establishing what's the going rate for a ferry service on the Great Lakes. As Mr. MacDougall pointed out, that rate was struck with the inauguration of the service. The increases have kept in line with expenses.

Mr. Chairman: I still don't understand why, for one of the services which you provide, you have basically a break-even policy and on the others you do not. Why, on the one, have you moved to a break-even policy?

Mr. Beatty: The point I was trying to make is that with the bus industry, rail industry, air industry, there is pretty well a universal Canadian matrix across the country establishing rates by the mile or for service. I do not believe that such a situation exists in the case of the Chi-Cheemaun. In other words, the Chi-Cheemaun may be an exception.

Mr. Chairman: It occurred to me at the time that perhaps the reason for the policy is that a lot of users of that particular kind of service would use that particular service maybe once a year at the outside or maybe only once in a lifetime. Therefore, you stick them and they won't be back to complain about it the following day.

Mr. Beatty: I can assure you that was not the intention.

Mr. Chairman: I just don't follow the rationale. It strikes me that if you had a basic policy in your commission that you would set up all your agencies to fund themselves. That I could understand.

Or if you had established an across-the-board thing, that essentially, "We'll try to keep within the market rates for this kind of service, and we recognize that we'll have to subsidize at the other end," and you applied that across the board to all the services that you run. That I could understand.

I do not understand a policy which says, "For certain kinds of services we will break even and for others we will subsidize."

It almost appeared to me in the rundown of your operating expenditures that you gave this morning that you were really accepting that the government ought to heavily subsidize certain types of services, and that, in fact, you were not worried about it because at the end of the year if you ran up a deficit with the rail line or the bus line or norOntair, you have two levels of government waiting to fund the shortfall. I do not understand how you do that.

It would strike me that you would have one policy which would apply across the board to all the services, whether that is transportation, or freight or communication services. I don't understand how you could vary that so substantively in the one area. And there really isn't an explanation.

Mr. Mathews: I cannot recognize your rationale. For example, when the Chi-Cheemaun services first came into being, competitive fares from the British Columbia ferries, from the maritime ferries, and everywhere else were all studied.

After much consultation, an established fare structure was set up based on similar operations for time and distance, costs involved, operation and the whole bit. That was the fare structure that was arrived at on the recommendations of management and after study by the commission.

When you say you cannot understand the rationale for norOntair or for rail, that we have two policies, it just so happens that the Chi-Cheemaun or the Owen Sound Transportation Company, the rate structure which is charged, that is a competitive rate, is self-supporting because of the volume of traffic.

You cannot apply the same rationale to rail passenger service as you are suggesting. It's impossible. If we were to

apply the same rationale to rail passenger service, our rail fares would probably have to increase by, maybe, five times. There is just no way that you can apply the same rationale to the one segment of the service as you do to the other.

2:20 p.m.

Mr. Chairman: That's really my problem. I'm searching for the rationale for your tariff policy and I don't see it.

In the one sense I do understand and am supportive of the notion that on many occasions you are probably offering a service which would not normally be offered and that there certainly are solid grounds there to subsidize that kind of service, even though you might not be able to recover your costs from ticket sales. The service is necessary and there are exceptional circumstances; therefore, we would subsidize that kind of service. What I don't follow is, how come that credo is used most of the time but not all the time?

Mr. MacDougall: Our attempts are to maximize the growth revenue that is taken in. As Mr. Mathews says, if we increased the passenger revenue two or three times, the number of passengers would go down considerably. We have to reach that balance point where we can generate a great number of passengers at a reasonable fare in order to maximize our growth revenue and minimize the amount of losses that are incurred.

Mr. Chairman: In a sense I suppose it is the same argument that everybody, especially in transportation, goes through: If you increase the fares, do you lose the riders and therefore lose revenue?

One final piece of business: Somebody told me the other day that they had seen an Ontario Northland bus in Florida. Just for the heck of it, why would there be an Ontario Northland bus in Florida?

Mr. Beatty: We engage in a number of charter trips by bus to Florida, to the east coast, the west coast, even Alaska, if it's a money-making proposition. People indicate a desire to fill a bus or two buses, and we engage in charter business.

Mr. Chairman: I take it you did say that this is a very profitable piece of business in part. The only rationale I can think of is that you must be making money on it. You surely would not be sending buses to Florida at a loss. Is that right?

Mr. Beatty: Right.

Mr. Chairman: It struck me that it was a little strange to see Ontario Northland machinery moving around north Florida.

Mr. Beatty: If it makes money we're not averse to putting on a charter.

Mr. Chairman: You have no aversion to that.

Mr. Ruston: How does your commission go about getting its budget each year? Do you make the usual presentation, let's say, to government and cabinet to cover the things you feel you want to cover? I suppose you must be having some problems getting enough, when you make a suggestion that you sell Star Transfer.

Are you pretty well the same as other commissions that go before Management Board of Cabinet to get their funding? What are your procedures for getting your funding through the government?

Mr. Beatty: We work out, internally, the contemplated revenues and the contemplated expenses--if we are talking about the operating budget. For the commercial services--rail freight and telecommunications are the ones we indicated this morning--we have to generate the funds to pay our expenses.

The budget for the noncommercial--norOntair, Chi-Cheemaun, the two passenger trains--are worked out in the same fashion. We then arrive at the amount that the ministry must request on our behalf.

We have to generate our own funds for capital expenditures. Similarly, if we required capital expenditures in total for noncommercial services, we would make the request to the ministry.

Mr. Ruston: To the Ministry of Northern Affairs?

Mr. Beatty: Yes. If the ministry agrees with our reasoning, from there we have to make the presentation on the commercial side to management board. The ministry makes the noncommercial.

Mr. Kennedy: Could I get a supplementary on that? Would the provincial contribution, whatever it may be, be made through Northern Affairs rather than the Ministry of Transportation and Communications?

Mr. Beatty: Yes.

Mr. Kennedy: That is an entry in the Northern Affairs estimates then?

Mr. Beatty: Yes.

Mr. Kennedy: I see. And MTC is not involved.

Mr. Ruston: There was some mention this morning of your Chief Commanda II, the one at Lake Nipissing. What is the main purpose of that ship and what does it actually serve? Could I could just have a little rundown on what it really does in Lake Nipissing, who it serves?

Mr. Beatty: In the main it is a tourist attraction. It does a little delivery of mail, groceries and light products to outfitters and people who have summer camps along the French River.

Mr. Ruston: How about passenger service--is that

included? Is it a round-trip situation, where people go out for so many hours during the day?

Mr. Beatty: Yes.

Mr. Ruston: It has room for 300 passengers, I take it. That is the one that shows a considerable loss. You put it up for private tenders, didn't you?

Mr. Beatty: Yes. We did not have a great deal of success.

Mr. Ruston: In operating it I suppose it is a matter for the government to decide. If you have to operate it on a minimum standard, and if you have a loss, it is up to the ministry to decide they have to furnish you with the money if they want the service.

Mr. Beatty: Not up to this point, no. If there is any shortfall there, we would cross-subsidize from the more fortunate commercial operations. The loss is not that earth shattering.

Mr. Ruston: Since you can divide it up and show a loss on that particular operation, don't you think that the ministry, in considering funding, is going to look at whether that particular operation is necessary as far as they are concerned? If they feel it is, then of course they are going to give you enough funding to cover your losses.

Mr. Beatty: Not up to this point, no. That is considered a commercial operation in the early stages, and we are attempting to minimize the losses. This year there will certainly not be any particular gain once the overhead goes in, but I would hope that it will contribute a small amount of money.

Mr. Ruston: I was interested about your goose-hunting camp when I read about that. I see by your statement this morning, which you showed on film, that it was a paying operation. How many people would use that in season?

Mr. Beatty: About 160 or 170.

Mr. Ruston: What was the total income--around \$80,000?

Mr. Beatty: I beg your pardon?

Mr. Ruston: What was the total income on that?

Mr. Beatty: I think it cleared around \$16,000.

Mr. Ruston: It cleared \$16,000?

Mr. Beatty: Yes.

Mr. Chairman: Can you give us a rationale for the Ontario government running a goose-hunting camp?

Mr. Beatty: I am afraid I could not answer that. The camp has been in existence for a great many years. It is a paying

proposition, small though it may be. It is bit of a throwback to the day when the commission was playing a more active part in tourist operations. Just how widely it is continuing I am not in a position to say.

Mr. Chairman: Does anybody know why it began?

Mr. Beatty: I think it began as part of a tourist operation.

Mr. Chairman: It seems a strange endeavour for the government of Ontario to be involved in. I am sure we must be one of the few jurisdictions in North America that actually runs a goose-hunting camp.

Mr. Ruston: Yes; that is what I was thinking. We show a profit of \$16,000. I am wondering if it entails much investment, which is part of the game. What have we really got? There is not much there; it is pretty frugal. Running water, where you run out and get it and run back in.

Mr. Beatty: The plant only operates for a short of period in the fall, then it lies dormant.

Mr. Ruston: We feed the geese down in Essex county, and I suppose they go back up so somebody can shoot them on the way.

2:30 p.m.

Mr. Chairman: What is the tariff for that? How much does that cost?

Mr. Beatty: The trip?

Mr. Chairman: Yes.

Mr. Beatty: I think from Timmins to the camp to have your hunt and return is around \$650.

Mr. Chairman: For how many days?

Mr. Beatty: A three-day hunt.

Mr. Chairman: Three days? Two hundred dollars a day?

Mr. Beatty: By and large, yes. That is your transportation in and out as well. You do not walk in, you have to fly in, Mr. Chairman.

Mr. Kennedy: Are they mostly Americans?

Mr. Beatty: No, but a big percentage are American.

Mr. Kennedy: Are they repeaters?

Mr. Beatty: A fair number, I understand, are repeaters, yes. They are geese hunters from way back.

Mr. Ruston: When we were discussing Star Transfer this morning, I think I mentioned Sudbury and Sault Ste. Marie. I know you will say there are many private companies there doing trucking, but since you are stuck with the low-paying part, it seems to me that if there is any possibility of picking up business there, that is where you should make application.

I suppose many would object to extending a class A licence between Sudbury and Sault Ste. Marie. But since you have a responsibility to look after the sparsely settled areas, I am one who would be thinking you should perhaps be in a little built-up area, too, to offset your losses.

I know that PCV licence. I was in business for many years in a very small village and only one transport came in every week. I knew he could come in because that was his licence. I had protection in that at least there was someone coming in to bring me merchandise and to take things out.

That is one of the advantages in having controlled licensing to a degree. Otherwise that little village might be missed; that trucking company might just go down the highway between Oshawa and Windsor and Detroit, like International Carriers Limited. They have 1,000 trucks on the road all the time, and that is where they make the money.

We have to have something to see that the small places are protected and get some service. Of course, that same trucking company that came into my little village had a right too to take the highway runs between Toronto and Windsor. He had the good with the bad, you might say.

Isn't there a possibility of getting in there and competing with private industry on the main roads, a possibility of getting a class A licence?

Mr. Beatty: You are familiar with the game, so you know there are two ways to get in. You apply for a licence and everybody who is in there objects. We are Ontario Northland, so you have a pretty fair idea of what kind of a reception we are going to get.

The other way is that you buy in, which costs a lot of money--unless we are going to get on to something pretty well sure-fire and get into the corridor you are talking about down through to Windsor. That is where we want to be. If there is money to be made, we want to be down in that territory. You have heard of businesses already that are losing money and that we are cross-subsidizing.

To buy into Sault Ste. Marie might cost us another \$400,000, depending on how big the firm is we buy out to get in there. It is not cheap.

Mr. Ruston: No, it is not; although there have been, in our own area, the odd new licence granted because of the increase in business over the past 20 years. For 10 to 20 years no licences were added; the same ones just kept getting bigger. But they have

in the odd case now allowed some new ones to come in by going through the necessary channels.

You would probably need quite a bit of support; I can imagine the number of people who would be bucking you. On the other hand, if the people in the north felt it would be an asset to them; if a fellow sitting way back here in Chapleau or Foleyet knew that you were trucking in that area and that you would be serving him, maybe he could put a little political pressure someplace to help you along.

I suppose that is an alternative.

Mr. Beatty: As a matter of fact the general manager of Star has suggested such an expansion. We are not talking a sure-fire paying proposition when we go in there, maybe an investment of a half a million dollars. It means it is a licence to lose more money.

Mr. Ruston: Nothing is sure in business.

Mr. Beatty: No. But when you expand, of course, you have to increase the fleet. That is also possible.

Mr. Ruston: There was quite a discussion with regard to the rail and so forth. I had a fellow who worked with Greyhound at one time tell me they were hauling people by train between Montreal and Ottawa for \$35. He said we could do it for \$18 by bus.

How do you find that in your--in the operations of bus, of course, it is two different types of service we normally give. Many people claim that the railroad is one of the most expensive things to operate when it comes to hauling some people and that buses are much more economical. In fact, the most economical way for anybody to get back and forth to work each day, if four people ride in a car, that is cheaper than anything made in the system yet.

How do you find the operation of bus compared to rail?

Mr. Beatty: Do you mean the acceptance by the general public or--

Mr. Ruston: Not necessarily the acceptance, the cost of operations and so forth, the cost.

Mr. Beatty: Certainly the bus is cheaper to operate than a train. There is smaller (inaudible) if you are talking about a unit. A bus unit is self-propelled, whereas the standard train consists of a locomotive, which is a very expensive piece of equipment, plus however many cars you put on behind it.

I would question your friend's remarks that he could haul them for \$18. When Via, not too long ago, started to reduce the rail fares it was Voyageur who were doing the greatest crying that Via was going to run them out of business.

Mr. Ruston: The other part to that is they feel Via are going to cut the prices and then get a grant from the government to offset it. That is what Voyageur I am sure--I hear him talking about how they do not get any grant.

I said, "The highways are there." He said, "Yes, but we pay the taxes on our licence and our fuel taxes." They are private and they keep looking at the railroads and their subsidies. That is their argument.

Mr. Beatty: The reimbursement for operating passenger services is not peculiar to Ontario, Canada, or anywhere else. It is a universal thing throughout the world.

Mr. Ruston: I think it is one we have to accept because it is such a large country. I accept that as being part of the price we have to pay for living in a large country. Subsidy is part of the game. We realize that.

Mr. Beatty: Even in Europe where they are fairly densely populated the railways are in the main government owned and government subsidized.

Mr. Ruston: I am well aware of it. That is right.

I guess that is all I have, Mr. Chairman.

Mr. Kennedy: I have a few little questions. With GO Transit down here, as I recollect the minister saying and it started a policy thing, they tried to have the subsidy no more than 35 cents on the dollar. In other words, the user pays 65 cents. They are trying to keep a ratio such as that.

Is that anywhere in the ball park, or do you have--mind you, they are only in hauling commuters, no commercial in that field. They work towards that goal which seems to be rationalized in Europe and everywhere else. Is that applicable?

Mr. Mathews: No. It is almost the reverse.

Mr. Kennedy: Is it? Maybe I have got these figures backwards, but I do not think so.

Mr. Mathews: Via's subsidy is something like 72 cents on the dollar and 28 cents from the passengers.

Mr. Kennedy: Maybe I have got this reversed then. But I thought it was the other way.

Mr. Mancini: No. I think your figures are correct.

Mr. Mathews: It is just about reversed.

Mr. Kennedy: Is it?

I see in the act you may appoint an industrial commissioner. Have you got one?

2:40 p.m.

Mr. Mathews: No.

Mr. Kennedy: Did they ever have one?

Mr. Mathews: Oh yes.

Mr. Kennedy: I suppose as soon as they saw the act they appointed one in the early days.

Mr. Mathews: No, no.

Mr. Kennedy: What's the scene with you then?

Mr. Mathews: I guess government. We were called the "Development Road" and that was part of it. Now, in my opinion, times have changed drastically. Many of the functions such as that of an industrial commissioner have been taken over by other departments.

For example, your Ministry of Industry and Tourism now would handle normally the functions that we used to perform at one time through an industrial commissioner in northern Ontario.

Mr. Kennedy: How long is it since you've had one, do you recollect?

Mr. Mathews: Mr. Johnston, how long ago? Ten years?

Mr. Beatty: Something else I think in the manner in which we operate also has crept in. We have a marketing department. The head of the marketing department does, in fact, act as a sort of industrial field man. He would go around, scout around, as to what might be areas in which we might explore, where new business might develop.

Mr. Kennedy: So that combination works toward the development of industry and traffic and so on. With the Ontario Highway Transport Board, when they deregulated, we deregulated of course. It caused quite a bit of concern and there were a number of truckers from the north and so on who made representations to us.

An application for a licence certainly stirs up a lot of interest among the competition and the people who have an interest in such things. Do you get notice of all these applications in the north, in fact in any movement? What do you do then? Decide whether to make--

Mr. Beatty: Whether we should approve or whether we should object?

Mr. Kennedy: Do you get requests for support of certain--

Mr. Beatty: We have the alternative of objecting and of sitting silent.

Mr. Kennedy: How often are you involved in the hearings?

Mr. Beatty: If the hearing is considered a matter that would directly affect Star, then one of the senior people in Star will attend the hearings. We have a man who spent a great deal of his time in hearings.

Mr. Kennedy: Is there quite a bit of that going on now? Are there applications continually before the board?

Mr. Beatty: Not to my knowledge. We haven't objected for some time to another carrier. The objection had kind of moved away with the deregulation north of North Bay.

Mr. Kennedy: So there isn't much going on in that regard now?

The pensions, I wanted to ask for some additional information on that. It seemed to be a big thing on the charts you put up this morning and it's really been a big item in the last scene. What transpired?

You mentioned there that you are obliged to become viable or have it funded in some fashion or other, which wasn't around before.

Mr. Beatty: Yes. The Pension Benefits Act requires, as you know, that an actuary examine your fund and if a shortfall in the fund is noted, then it's our responsibility under the law to attempt to reduce that shortfall. In other words, to be sure that there will always be money in the pension fund to pay people as they come up for retirement.

Mr. Kennedy: Well before, was there no fund set up as such? Were the pensions paid out of--

Mr. Beatty: In 1939 when the pension fund was formed on the Ontario Northland, there was only a small amount of money from the previous noncontributory pension that found its way into the base fund for the new contributory pension, which meant that you started from zero.

The first deficit that the actuary indicated was \$19 million. That has now been inflated due to the cost of living index going up. We are now talking something around \$50 million. Each time that is examined the commission must then put supplementary funds into the pension fund and that has reached a pretty healthy figure of better than \$4.5 million. We must contribute annually. But \$4.5 million for a firm like ours is a substantial amount of money.

Mr. Kennedy: Is that matched by employees?

Mr. Beatty: No. That's over and above whatever-- If the employees contribute \$2 million, then the commission contributes \$2 million. But the \$4.5 million is over and above that. It's a supplement over top.

Mr. Kennedy: What do the employees contribute? The same as a provincial civil servant?

Mr. Beatty: They contribute six per cent of their salary, less that amount of money that will go into the Canada Pension.

Mr. Kennedy: Well, how much is in it now?

Mr. Beatty: In the fund there's about \$63 million.

Mr. Kennedy: Do you draw interest on that?

Mr. Beatty: Oh yes. Mr. MacDougall is charged with investing that money.

Mr. Kennedy: So it's a balance of income and outgo there now, and it's to be held at that level, according to the auditor. Is that about right?

Mr. Beatty: Yes. We'll probably, within the next year or two, be charged with contributing an additional amount of money over and above what we contribute now.

Mr. Kennedy: Because it won't sustain itself?

Mr. Beatty: Well, that's the general idea behind it all. The \$63 million at the moment wouldn't pay everybody's pension if we all went into pension at the same time, which is highly unlikely.

Mr. Chairman: Okay, thanks very much. Mr. Charlton.

Mr. Charlton: If I could return for a few minutes, Mr. Chairman, to some of the questions we were on this morning about Star Transfer. Some of the right questions were asked but they didn't get fully answered I don't think, or at least the answers weren't clear to me, so I would like to just follow up on them.

First of all, I think it was Mr. Sterling who asked the question this morning about the deficit of Star Transfer over the last few years. He asked the question whether or not--I think the deficit is around \$700,000 or \$800,000 a year? If you just kept those services which the private sector wouldn't want to provide, the Chapleau runs and so on, would your deficit on those communities which wouldn't get service in the private sector, would the deficit be as high as running the whole operation now?

Mr. Mathews: No, simply because of the mortgage and the interest-carrying charges of the Toronto terminal. That's the major one, right off the bat. If that were disposed of, then obviously the major portion--

Mr. Charlton: That presumably is going to be disposed of. I got the sense from you this morning, Mr. Mathews, that the commission has recommended to Northern Affairs that Star Transfer be disposed of. And I got the sense from your comments this morning--and I just want to be sure that I've got the correct

sense--that that action was taken by the commission not so much because you wanted to get rid of Star Transfer, but you wanted to get rid of the present setup, the commercial nature of the operation.

In other words, you're faced with either operating at break-even or profit, or taking the loss that is not being subsidized by the province at all at present. Is that correct?

Mr. Mathews: At present we are not being subsidized by the province, that's correct.

Mr. Charlton: Okay. Was the real intent of the commission, when they recommended getting rid of Star Transfer, to actually get rid of the whole operation? Or was your intent to get the province to rethink it and look at the services that would be lost to communities if it went to the private sector and then perhaps set up a new structure where some or all of Star Transfer was subsidized, because of the nonprofitable runs that you do?

2:50 p.m.

Mr. Mathews: If I recall correctly some of the discussions that took place leading up to the recommendations being made to the ministry, I think the intent was that we recommend to the ministry that Star Transfer be disposed of and ask for an investigation into all of these alternative things that would, in our opinion, naturally crop up.

Would the municipalities properly served? Would the original intent of the purchase of Star which was to prevent a monopolistic situation from being created--that is the information I have been given as the original reason for the purchase--would this, in fact, not recur? Additional licences have been granted and would they serve? The lifting of the restriction north of North Bay has come about, and would all these things deter from the public interest and the people that we serve or would the private sector in fact do an adequate job of servicing? These are the things, as I said this morning, that we do not have the answers to.

Mr. Charlton: So the real intent was to have the government rethink the whole proposition.

Mr. Mathews: The real intent then would simply be that Star, in its present form, the format under which Star operates at the present time, should be changed, whether it is sold to the private sector, the licences which we currently enjoy and hold should maybe be sold when these reports are all finalized, and I rather suspect that we will be asked for more information as a result of this inquiry.

Once that is in, my own personal opinion would be that the commission would re-examine the information that has been made available to it and, together with the ministry, would then make a final recommendation to government.

Mr. Charlton: In your opinion, in the long term, in the best interests of those communities that Star Transfer now serves,

those that are profitable and those that are unprofitable, in a global perspective, assuming that mortgages are going to be reduced and eventually paid off and so on, will the customers that you now serve and the communities that you now serve be better served if you keep Star Transfer under a new mandate where at least the nonprofitable segments of it are subsidized, or whatever?

In the long term, will the communities that you are now serving be better served if you keep Star Transfer or if it goes elsewhere?

Mr. Mathews: That is a very difficult question to answer simply because of how well is the private sector going to service them? Certainly, there are areas where they may or may not service. We have a very real concern that there are certain areas that may not be serviced.

To maybe make my point, let me give you some small indications of a hypothetical situation that could arise. Let us not consider for a moment those isolated communities that are off the beaten path and let us stick to the main corridor, Highway 11.

We operate with highway drivers, local delivery services, et cetera. These people belong to the Teamsters' Union. They are paid a mileage. They are highway drivers and do not load or unload their own trucks or anything else.

What about the Raynars and the Burks and the other little communities that are 20 miles or 30 miles or 40 miles outside of a terminal and you happen to have a grocery store in that little community and you have a shipment that is coming in of 500 pounds? Will the private sector serve you or will the class C operator, the man who benefited from the lifting of the restrictions? He is not going to be permitted to serve you because his licence is in effect as before; he cannot drop it off to you. He must pick up a full load from some place. He could come to your place and get a full truckload but he cannot come and get half a one. Will that person suffer? That is one of the questions that we have to--

Mr. Charlton: I suppose that is what I was asking for, not necessarily fact but your opinion as a commission. You have been doing business up there. In your opinion--and I do not care who responds or if all of you respond--the communities that are now being served and the kinds of customers you are now serving, in the long run how will they be better served, to keep the operation with Ontario Northland under a new mandate, a new setup, or to let it go?

Mr. Mathews: That leads me right back to the same answer I gave you a moment ago and that answer was simply this: that it may or may not be in the best interests, because if the man who purchases our licence, for example, then it would be my opinion that he would also purchase our obligations.

What I am saying to you is that if he decides and the private sector does not pick up that licence to serve that one isolated community, just as this gentleman mentioned a minute ago about being off on Highway 2, he knew that he was going to get his

parcel because the carrier was obligated to bring it to him.

I guess we are in exactly the same position and we operate under extremely difficult conditions because every time that the marketplace is opened up up there it obviously follows that we lose some business.

If you were a class C operator or a private trucker, and you were hauling for one specific company into the north, let me say you relate to chain stores, or maybe a large distributing company who have their own transports on the road operating under a lease arrangement or what have you, and they come up with a load of merchandise for their branch office, then it does not really matter to them how much they charge to bring a load back to Metropolitan Toronto or whatever market they happen to be operating from in southern Ontario.

Whatever it is, it is plus money. If they take a load of groceries into Timmins and they phone Iroquois Falls and say, "We would like to bring a load of paper back; we will bring you a load of paper back for \$100," or for \$50 or for whatever, it does not really matter, that is profit. They were coming back anyway. That, in turn, eats into the revenues of Star or the other licensed operators who are serving that area. Have I made myself clear at all?

Mr. Charlton: Clearer than it was before, yes.

I think that is all for the moment.

Mr. Kennedy: If somebody opens a new camp off the beaten track, is Star obliged to deliver to it?

Mr. Mathews: We do. I do not know just what our obligation would be, but we have always taken the position that if it is within our jurisdiction we will serve it.

Mr. Kennedy: Serve that new little business starting up--maybe it will get to be big business soon, but those are some of the obligations that you take on. Certainly, there would be no profit in a little operation like that.

Mr. Mancini: Just a couple of questions. The Ministry of Transportation and Communications have informed me that they are doing a study of all the ferry services in Ontario to try to come up with some type of rationalization. Are you aware of such a study and have you had any input in that study?

Mr. Beatty: You are talking about the study of passenger-train ferries or for all passenger-carrying ferries?

Mr. Mancini: Ferry services.

Mr. Beatty: Ferry service only?

Mr. Mancini: Yes, ferry service only.

Mr. Beatty: Not to my knowledge, no.

3 p.m.

Mr. Mancini: I would like to move on then and ask about the lodge that was sold in 1979. I take it the lodge was sold because it was a nonprofit venture. It lost a lot of money and that is why the lodge was sold.

Mr. MacDougall: It lost a significant amount, yes. For years our operation was the only one in Moosonee but about 1974 another operation opened up in Moosonee to provide facilities in that community so our facilities were no longer necessary.

Mr. Mancini: What was the lodge sold for?

Mr. MacDougall: I believe it was \$130,000, plus \$33,000.

Mr. Mancini: Was that the appraised value of the lodge?

Mr. MacDougall: Yes. It went out for tender and it was the high bid that was received.

Mr. Mancini: What was the appraised value of the lodge?

Mr. MacDougall: I really do not recall. Offhand, I cannot tell you, but certainly more than the land value.

Mr. Mancini: The price you obtained, would it be half the appraised value, a quarter of the appraised value, do you have any ball-park figures of an idea of the appraised value of the lodge?

Mr. MacDougall: No. It would not take too much effort to find out if you want it.

Mr. Mancini: Yes, I would like that information, please.

You say it was sold by tender. How many tenders were received by the commission?

Mr. MacDougall: Three, as I recall.

Mr. Rowe: In connection with the same thing, is the lodge in operation under the new management or did the new buyer close it down?

Mr. Beatty: No, I understand his intention is to operate it during the spring, summer and fall, during the good season, and then close one of them down.

Mr. Chairman: I have a couple of questions that I would like to ask on my own, kind of related to the mandate which you have and the nature of the operations which you run.

The idea of a food terminal in the north has been bandied about for some time. Have you participated in the workups for that proposal or were you a participant in any sense?

Mr. Beatty: A food bank?

Mr. Chairman: A food terminal.

Mr. Beatty: Not to my knowledge, no. I do not think we were ever approached. Was this recently?

Mr. Chairman: Yes.

Mr. MacDougall: In northeastern Ontario?

Mr. Chairman: The idea of a food terminal in northeastern Ontario has been kicked around for some time, but I believe Mr. Pope was the latest of a long number of people who suggested that there should be a food terminal in northeastern Ontario and it strikes me that, because you were the development road and all of that, the Ontario Northland Transportation Commission would have participated in the workup of such a proposal. You are telling me you were not involved in it at all.

Then can I ask the other side of that question? Why were you not? It strikes me, as a transportation commission serving the north, it would be logical that you would participate in that. I can see some rationale in that, certainly a good deal more than running a goose camp. Why were you not?

Mr. Beatty: I am afraid if you are directing that question to me as to why we were not, I cannot answer. I have no idea why we were not.

Mr. Chairman: Can you explain to me why the commission is not involved in, or are you, the provision of air ambulance services from the north?

It is a matter which has been discussed a great deal. The Minister of Health (Mr. Timbrell) has announced a new air ambulance service in the north. My understanding is it is going out to tenders. It is going to be done on a contract basis.

It struck me as rather odd that we would be doing that when we have in place now a transportation agency with seemingly appropriate equipment, or close to it. Why are you not providing air ambulance service from the north?

Mr. Beatty: First of all I should point out that our director of air and marine, Mr. Wallace, is on in an advisory capacity to the ministry in this regard. Secondly, we have only eight Twin Otters; they are fully engaged in the service of norOntair, so there is no spare time there for air ambulance service. We have no helicopters.

If a body such as Ontario Northland were to become involved in that, then someone would have to purchase the aircraft and helicopters, rather than use them on demand, or however it is to be established that such aircraft will be made available.

Mr. Chairman: Apart from having staff on an advisory committee, did the commission participate in the ministry's deliberations on the provision of such services?

Mr. Beatty: Not to my knowledge, other than that our man was employed in an advisory capacity.

Mr. Chairman: What is escaping me here is why we have a northland commission extensively involved in the transportation system throughout the north, and yet when the government of Ontario wants an additional service they are obviously able to buy, lease, rent or in some way pay for new equipment and new personnel.

Why would we not be going to something like an existing agency already heavily involved in transportation? Why would you go to an outside agency, perhaps even to the private sector, to provide such services? It would seem logical to me that if there is a government agency at work providing transportation throughout the north, if you wanted additional air ambulance services you would go to the existing agency. Why set up another one?

Do you have answers to any of that?

Mr. Beatty: The existing agency, if you mean us, Mr. Chairman, is not equipped. We do not use our own manpower as pilots, we use other carriers' pilots. It is my understanding that when the air ambulance service went out for tender, those people who chose to attempt to operate the service had to supply, on standby, their pilots, which we in the first instance do not have. We would have to employ from established carriers their particular staffs. It would probably in the long term prove more costly than the manner in which it is now being approached.

Mr. Chairman: Let me ask you the obvious question then. When it did go out to tender, did Northland make a submission? It strikes me that here is probably a government-guaranteed piece of business; a set amount of work, underwriting of equipment and personnel is written into it. Why would you not make a bid on that?

Mr. Beatty: In the first instance, if we were to make such a bid it should be established that it is a commercial operation. By the memorandum of understanding, before we can enter into such an undertaking we have to get permission from the minister. Somebody has to support it financially; we would have to get permission to go to a bank or some other source to borrow funds.

From our viewpoint, if it is a commercial operation, first of all we would have to be assured we are going to make some money out of it. If we are not going to, then somebody has to fund us.

Mr. Chairman: It strikes me as odd that there is transportation in the north involved, for which your agency is directly charged. There is also an opportunity for someone to go in and make, by my estimate at least, a rather large chunk of guaranteed money--all the way from, "This is going to be a good break-even piece of business," to, "It is going to show a substantial profit," to, "It is going to buy a fleet of jet aircraft for somebody."

Why did you not participate in that process, the workup?

Failing that, why not at least in tendering? You have all kinds of operations here, some of which are being done for other than making money and some of which are being done for making money. It seems to me this would be a prime opportunity for you to participate and probably to cross-subsidize some more work.

I am at a bit of a loss to understand why you did not at least participate in the process and not actively seek that contract.

Mr. Beatty: The point I am trying to make is, we cannot actively seek the contract until we get permission to enter into such a--

3:10 p.m.

Mr. Chairman: Did you ever seek such permission?

Mr. Beatty: No, we did not.

Mr. Chairman: Is there any reason why not? Were you ever given any directive that this was really not your business and to stay out of it?

Mr. Beatty: No, not to my knowledge. I know that our air and marine director had some reservations about it. If we did enter into such an undertaking, whether it was that undertaking or any undertaking, certainly we would examine all the facets of it and establish in our own minds how we were going to finance it or if we could indeed finance it. Whoever gets this contract has to secure in some fashion a fair amount of capital to supply aircraft.

Mr. Chairman: I will tell you what my problem really is. In looking at your operation and in reading the research that I have, it appears to me that your organization is sort of struggling with the financial obligations which you have.

Part of that is this whole business of cross-subsidizing, running one as a commercial operation which will in turn help to finance something else. You are working on federal grants and provincial grants and so on. But at least it is safe to say that there are some financial problems in the Ontario Northland; you are running at some substantial deficit.

In some instances, for example, the matter of Star Transfer, you have actively tried to work out alternatives: should you come into the south, and if you did, what would happen; what would happen if you deregulated in the north? So you are exploring the possibilities that are at hand.

None of our research indicated even a passing knowledge of the air ambulance service. Yet, in my reading of the air ambulance proposal as it was put out to tender, that is a fairly substantial piece of business. That is a contract that has almost a guaranteed income; the track record is such that it would be a very profitable investment from anybody's point of view. I am at a loss to understand why you are not at least participating in the process.

This is from my point of view, of course. If I have an agency running transportation in the north and want further transportation in the north, why do I not go to that agency? Why go to somebody else?

Mr. Beatty: I think we should clear up something here. Ontario Northland is not, in fact, struggling financially in so far as the commercial operations are concerned. Rail freight and telecommunications are very viable, and the amount of money that we have to cross-subsidize, with the exception of Star, is fairly minimal. We do not cross-subsidize any of the noncommercial services; they are funded by the government of Ontario.

In other words, Ontario Northland is an agency that operates a service that is requested. In that respect, there is no problem in cross-subsidizing the bus if it loses a few dollars or the Chief Commanda if it loses a few dollars.

I did not read the contract, but it was my understanding that part of the contract indicated that whoever bid on it had to have suitable aircraft available. To start with, we would not have that type of aircraft available. I do not know how long it would take one to procure that type of aircraft if we had gone ahead in that fashion.

To get back to your basic question, did we become involved, the answer is no, we did not become involved. Had we so desired we would have had to receive permission from the ministry before we did become involved. If we had become involved and wanted large sums of money, we would have to go through another process to get our hands on that kind of money.

Mr. Chairman: I guess the problem I have is that, theoretically, one would expect the Ontario Northland Transportation Commission to be involved in all aspects of transportation in the north. That, to me, would mean that when a new transportation aspect came up you would at least be a participant in designing that new system and would probably turn out to be the deliverer of the system.

I do not understand why in some instances we set up a public agency to run something, in this case, a transportation network, and every time it seems the opportunity would be there to make that a self-sufficient organization we do not take it.

I am at a loss to understand it. You yourself said that you do not cross-subsidize certain aspects of your thing, you take it out of the public purse at the end of the system. Well, there are a lot of ways to subsidize the system. One is to cross-subsidize, as you use it, and the other is to pick up the tab in the form of a grant to beat out a deficit at the end of a year. We are very active at that.

I just cannot get at the rationale that says we run a goose camp but we do not run an air ambulance service. I do not understand that, do you?

Mr. Beatty: To be perfectly candid I do not believe that

the commission should become involved in the air ambulance for the various reasons that I have attempted to describe here.

I still am not 100 per cent sure, when we talk about grants from the government, that it is clearly understood by this committee that we are charged by the government to run certain operations that if we were in private business by ourselves, we would not have anything to do with. And we are charged with running those operations to the very best of our ability; which I can assure you we are doing.

But when it comes to taking on something over and beyond that, without any expertise in that field, and without full knowledge of exactly what you are talking about, Mr. Chairman, I must admit that no, we did not, as far as the management team is concerned, examine that possibility.

Mr. Mathews: If I may add to what the general manager has said, Mr. Chairman: I cannot quite reconcile in my mind your rationale. As you know, norOntair is operated by us for the province of Ontario. No private contractor could or would touch it because it was a losing proposition right from day one and was intended to be that way; there was no other way.

It may well be that the tendering for the air ambulance service, as you suggest, is going to be quite profitable. It may well be that the private sector will want to tender on it, but they may not. In that event, if they were not to tender on it, then I suppose, in order to provide that service as an essential service, you in turn would come back and ask Ontario Northland to operate it and, in turn, would probably pick up the difference between the net revenues and the total expenditure.

That is the way norOntair came into being and that is the way it continues. And we continue to try to improve that service and at the same time to reduce the deficit year by year. That would be my interpretation of what could happen with the new air ambulance service, with which I am not that familiar, quite honestly.

Mr. Chairman: There is a difference of philosophy at work here. There are those who hold that a government agency should only operate losing propositions, and I am not one of them. I believe if you have an agency at work there, it ought to pick up a couple of the winners as it goes along as well.

I would guarantee you that somebody is going to make a potful out of that air ambulance service and, except that we are taping Hansard at this transaction, I think I could even give you the name of the most likely prospect, not to mention which political party he is affiliated with. I think we all know that.

I just cannot fathom why the same ministry, obviously involved in the provision of two kinds of services, does not turn within the ministry itself and say: "We already have a transportation agency. Let's set it up and run it because they are going to come out of the same airport."

As you know, Ontario Twin Otters are going to be sitting cheek by jowl with the new jet air ambulance because there isn't any other place for them to land. They are going to be right there.

That is pretty well the extent of my questions. Perhaps other members of the committee have questions.

Mr. Ruston: I just have one, Mr. Chairman. Someone in answering a question said something about the Toronto terminal and the cost of its operation or something. Is that the terminal for your bus?

Mr. Mathews: No, it is for Star Transfer.

Mr. Ruston: Am I to take it from that that it is a losing operation, that the cost of operation is very high on that particular item? What is the problem there? I missed it when there were some answers--

Mr. Mathews: Maybe I can go back to it.

I think your friend asked the question that I was attempting to answer: would our losses be less if we only operated, let's say, from a northern Ontario terminal--Timmins, for example--and didn't serve any of the rest of the area? If we simply went out from that central point to this isolated community and out to this one, et cetera, would they be less than what they are now? And I said, yes, they obviously had to be, because the major loss incurred at the moment is the interest charges on the mortgage on the Toronto terminal.

Mr. Chairman: That's a bit of a baffle too. I mean here's a transportation commission, one of whose problems is interest charges on the Toronto terminal. It's a bit of a reach.

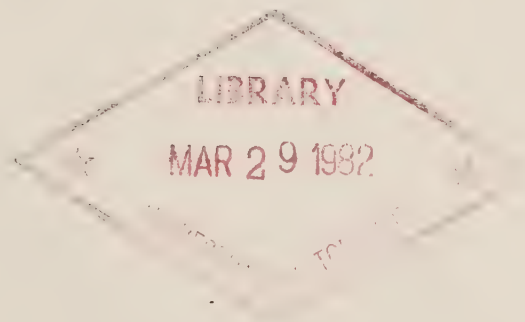
Any further questions? Gentlemen, we thank you very much for coming in today and being so candid with us. We may have a couple of questions, in which case John Eichmanis, our research officer, will get hold of you before we table this report.

The committee stands adjourned until tomorrow at 10 a.m.

The committee adjourned at 3:22 p.m.

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STANDING COMMITTEE ON PROCEDURAL AFFAIRS
REVIEW OF LIQUOR CONTROL BOARD OF ONTARIO
WEDNESDAY, OCTOBER 1, 1980
Morning sitting



STANDING COMMITTEE ON PROCEDURAL AFFAIRS

CHAIRMAN: Breagh, M. (Oshawa NDP)
VICE-CHAIRMAN: Davidson, M. (Cambridge NDP)
Charlton, B. (Hamilton Mountain, NDP)
Kennedy, R.D. (Mississauga South PC)
Mancini, R. (Essex South L)
Rowe, R.D. (Northumberland PC)
Ruston, R.F. (Essex North L)
Sterling, N.W. (Carleton-Grenville PC)

Research Officer: Eichmanis, J.
Clerk: White, G.

Witnesses:

Arnold, E.S., Chairman, Canadian Wine Institute

From the Wine Council of Ontario:

Conde, M., Member
Corbett, J.F., Chairman

LEGISLATURE OF ONTARIO

STANDING COMMITTEE ON PROCEDURAL AFFAIRS

WEDNESDAY, OCTOBER 1, 1980

The committee met at 10:14 a.m. in committee room No. 2.

REVIEW OF LIQUOR CONTROL BOARD OF ONTARIO

Mr. Vice-Chairman: The chair sees a quorum.

The first group to appear before us this morning is the Canadian Wine Institute, Mr. E.S. Arnold, chairman. Mr. Arnold, do you have someone with you?

Mr. Arnold: Do I address you as chairman, sir?

Mr. Vice-Chairman: You can call me anything you like.

I believe the clerk explained to you that during the course of these hearings we are swearing in all persons who are participating. So if you have others with you, Mr. Arnold, we would like to swear you in first, and then you can introduce anyone you may have with you.

Mr. Arnold: The general manager of the Canadian Wine Institute, Miss Nancy Plumridge, was just informed that her father was taken seriously ill and she had to rush to the hospital. I was the only real speaker anyway, but she was going to accompany me, so there's no one else.

E.S. Arnold, sworn.

Mr. Vice-Chairman: You have a presentation to make I believe, Mr. Arnold. You go right ahead then.

Mr. Arnold: Yes, we did submit copies of our presentation to your committee, I believe in the normal fashion, and our presentation does not deviate from what we have presented in written form. So I would ask if you want me to read this out. We have nothing else to say other than what we have presented.

Mr. Vice-Chairman: Well, given that we've just received this, I think it would be better if you did in fact read it through so the members can follow along.

Mr. Arnold: It is quite short: The presentation to the standing procedural affairs committee.

The Canadian Wine Institute, a nonprofit association, was incorporated in 1940 as an association of Ontario wineries to respond to the needs of the Ontario industry, primarily vis-a-vis the Ontario grape growers and the Liquor Control Board of Ontario. In 1965, because of the growth of a local wine industry in British Columbia and subsequently in a number of other provinces, all Canadian wineries were invited to join the Canadian Wine Institute

so that this organization could reflect the national interest of our industry.

In 1975, a new role was defined for the institute and objectives were agreed upon. In 1978, the membership structure of the institute was reorganized and the institute became an "association of associations." Each provincial association, representing its own members, joined the Canadian Wine Institute; any wineries not represented by a provincial association joined the institute as independent members.

Membership in the institute is open to all producers of wine in Canada and at present there are 30 members as shown on the attached list. There is a list attached to our presentation. An overview of the industry including facts on capital invested, persons employed and annual operating expenditures is also attached.

The third paragraph here that I am going to read is most pertinent to this.

The Canadian Wine Industry Institute does not deal directly with the Liquor Control Board of Ontario, as the role of the institute is to represent Canadian wineries on topics of national scope, separate and distinct from the activities of regional or provincial winery associations whose interests focus on provincial matters. It has therefore been agreed that any presentations to the standing procedural affairs committee on the operation of the Liquor Control Board of Ontario should be the responsibility of the three provincial associations: the Wine Council of Ontario; Wine Council of British Columbia; and Soprovin, Societe de Promotion de l'Industrie Vinicole du Quebec, the Quebec association. And the Wine Council of Ontario is here, following me.

The institute ensures liaison and exchange of information between the three provincial associations and independent members in order that regional interests from across Canada can be properly represented.

In addition to many services to its members, the institute supplies statistical and other information about the industry to the federal and provincial governments and provides liaison between the industry and the governments.

The institute prepares and submits briefs respecting matters of concern to the wine industry and, from time to time, the government contacts the institute for opinions and advice respecting tariffs, taxation and legislation concerning the industry. Treatment by the federal government as it relates to taxes on both Canadian and imported wines is outlined on an attached sheet.

Mr. Davidson, that is all officially the Canadian Wine Institute would like to say regarding this proceeding.

Mr. Vice-Chairman: Fine. Thank you Mr. Arnold.

Do any of the committee members have questions they would care to raise with Mr. Arnold?

Well, I thank you, sir, for your presentation.

Mr. Arnold: Thank you very much, and thank you for asking us to be here. We appreciate it.

Mr. Vice-Chairman: The next group to appear before us will be the Wine Council of Ontario, Mr. J. Corbett.

Is Mr. Corbett present?

Mr. Corbett: Mr. Chairman, I would like to have permission to have Mr. Michael Conde, a member of our directors of the Wine Council of Ontario, and president of Chateau-Gai Wines Limited, join me.

Mr. Vice-Chairman: Certainly. Could you take the bible please, Mr. Corbett?

J. Corbett, sworn.

M. Conde, sworn.

10:20 a.m.

Mr. Corbett: The Wine Council of Ontario is pleased to have the opportunity to submit its views on the operation of the Liquor Control Board of Ontario. The main concerns of the wine and grape industry in Ontario are the regulations under which the Liquor Control Board of Ontario operates, rather than the administration of the regulations in effect. With the approval of Mr. Graham White, the clerk of the committee, we are taking the liberty of including our views on the regulations.

The Wine Council of Ontario is currently preparing a brief for the Ontario government on the status of the wine and grape industry and this will be presented in full detail at a later date. In our submission herewith we are extracting the main points from this brief and will submit them in a condensed form.

I think you have in front of you our brief which was just delivered to you this morning. It's quite lengthy and I would like to pick out the highlight points and go through these matters.

In the review I would like to go back to 1976 when we presented our Ontario wine and grape industry brief to the Ontario government. This submission was prepared to identify those factors considered essential to achieving a healthy wine and grape industry in Ontario. The successful implementation of the Ontario government's land-use policy does require a healthy wine industry, not only capable of providing a market for the grapes produced in the Niagara vineyards but also realizing a fair return in doing so.

We are pleased to say this brief was received and acted on in a very positive manner by the Ontario government. New policies were implemented, of which the major items were: The Ontario

Winery Assistance Program, which was introduced on April 29, 1976; The Wine Content Act of 1976; permission to allow the expansion of winery retail stores, both regular and the mini-concept in grocery stores; and the markup reductions which took place on October 12, 1976. At this time I would like to review these points.

These positive changes proved effective. The Ontario wine and grape industry strengthened its market position in 1976 and moved to slightly in excess of 50 per cent of total market in 1977 and 1978. Unfortunately, several of the critical policy actions taken by the Ontario government in 1976 have eroded since that time. Consequently, market share showed renewed decline in 1979 and 1980. The current figures show 49.2 per cent for most recent periods. It shows a trend of returning to the position the industry was in in 1975, which is of great concern to the industry.

I would like to touch on the profitability of Ontario wineries. If we go back to the fiscal year ending March 30, 1978, at which time the reduced markups were in effect, the winery share of the total retail value of sales through the Liquor Control Board of Ontario stores was \$36.1 million, or 55 per cent of the total value.

Estimated for the fiscal year which will end on March 30, 1981, based on current trends, and with the new markups in excise tax that will be in effect during this period, the winery share of the total retail value of sales is estimated to be \$50.8 million, or down to 43 per cent of the total value.

The shrinkage in percentage is due to increased provincial markups and increased federal excise and sales tax. It should be recognized at this time that substantial windfall profits are occurring to the Ontario government as a result of compounding higher markup and provincial sales tax on higher excise tax.

If we look at the chart shown on our brief, I will just take the totals. The total provincial revenue, including the sales tax and the markup, has increased from \$23.1 million in 1978 to an estimated \$51.7 million in 1981, which is an increase of \$28.6 million or 123 per cent. In the corresponding period, the retail dollar value increased by \$52.5 million or an increase of 80 per cent.

Now if we look at the total federal revenue, their increase is \$9.2 million, or 143.7 per cent. When you get down to the wineries, our increase was \$14.7 million, or only 40.7 per cent, which caused our actual percentage to shrink drastically.

Our costs during this period, however, have increased considerably. I have listed the main packaging and raw materials and labour on the following page. You can see grapes, based on our estimated crop this year, and the new prices which we just negotiated are increased from 1977 vintage to the 1980 vintage will be 27.5 per cent.

Sugar, as at the time these figures were put down, had increased 275 per cent, but lately it has been increasing daily. So it is much higher than that at this time.

A major packaging component, such as glass, the compounded increase of 39.4 per cent from October 1, 1977, until today, which new price became effective today. Cartons have increased 33 per cent, labels 40 per cent, closures 33.3 per cent, and the average increase in labour in the industry is 30 per cent in that period.

During this time the winery prices--and it is hard to put an exact figure on this because each winery submits its prices confidentially to the board, but if we worked back from the retail price and take the markups, we take that on the average they have increased seven per cent per year on a compounded increase of 22.5 per cent over three years. As you can see, that recovery is far below our increased costs. We have had to do that to compete with the low-priced imports.

Winery price adjustments are currently only allowed once per year, normally on April 1. We are recommending that adjustments be allowed more frequently to allow for a better balance between cost recovery and meeting competitive needs.

Because of all the points we have just mentioned, the profit during this period--we will take the net result of the average profit at 12 months ending March 30, 1980, which is the last reporting period we have figures on. If we take the four major wineries in Canada, after interest and before taxes, our profit is 3.4 per cent, and the return on assets employed is only 2.8 per cent. During this period short-term deposits were turning up to 15 per cent before tax. With these rates of return, the industry will not be in a position to commit the required capital to maintain the necessary growth.

It should be noted that these dismal results occurred in the 12 months ending March 1980 when wineries obtained a 49 per cent share of the Liquor Control Board of Ontario retail value and sales grew by 13 per cent. Since then, the winery share of LCBO volumes has dropped to 43 per cent and sales have slowed to three per cent growth versus seven per cent for the imports; there is an appendix giving all complete details at the back. That is the result of our cost increase, the prices, the markups and so forth.

I would like now to move down to the markups. As I mentioned before, we had a very positive reply from our brief in 1976. On October 12, 1976, the government of Ontario reduced the markup on table wines from 60 per cent to 37 per cent to stimulate the growth. The savings from the lower markup were distributed 80 per cent on lower prices to the consumer, and 20 per cent to the wineries for promotion purposes.

We have the fact today that these markups have now increased in two stages. Today we are looking at table wine at 58 per cent from the 37 per cent; the seven per cent sparkling field, which did not drop originally but since has dropped to 58 per cent; and then dessert wines, which have increased from 60 to 75 per cent.

Also I would like to point out that the Canadian wine markup has increased in the same period of time from 95 in 1976 to 105 now, and the imports from 117 to 123.

Our recommendation is: The Wine Council of Ontario contends that markups for Ontario wines are excessive as they have come back to, or even exceed 1975 levels. The notion that General Agreement on Tariffs and Trade provisions reached during the summer of 1979 prevent downward adjustments is unacceptable.

On what are projected to be static sales in 1980-81 for Ontario wines over 1979-80, the Ontario government is expected to realize nearly \$10 million additional revenue. At least 50 per cent of these added revenues should be rolled back to Ontario wineries in form of lower markups on proportionately higher selling prices to begin restoring the dangerous absence of any equitable return at present on growing, operating and investment cost.

10:30 a.m.

Such action would still keep the Ontario government within the covenant of base revenues on which 1979 GATT provisions were based. Anything short of such action simply makes Ontario wineries the victim of the "up-front" position of the Liquor Control Board of Ontario as domestic selling agent to the public, while the inequities of a tax-free wine industry in major European countries remain obscure in a system of hidden subsidies.

Import wines: Although the markup on imported wines is 123 per cent compared to the Ontario wine markup of 58 per cent and 75 per cent on dessert wines, the net revenue to the liquor board is about equal.

The Honourable Mr. Frank Drea, Minister of Consumer and Commercial Relations, is quoted in the July issue of Beverage Canada as follows:

"Look at wine and that 123-point markup. After we get done with total warehousing, transportation, equal prices across Ontario, store costs, et cetera, we make somewhere around 37 points profit. On Ontario wine, which is only 58 because we do not warehouse, we do not store, we make 36."

Our conclusion: The preferred and supportive status for the Ontario wine and grape industry, which was consciously put in place in 1976, no longer exists.

Canadian wines: The LCBO markup on Canadian wines is presently 105 per cent of the FOB winery price. Freight to destination is absorbed by the Liquor Control Board of Ontario. The adjusted markup on delivered warehouse cost, based on British Columbia shipments, is estimated at 75 per cent. In addition, the LCBO must inventory and distribute these goods.

In comparison, Ontario wines sold in BC are marked up 100 per cent on delivered BC board price. In addition, the Ontario wineries must maintain warehousing in British Columbia, or be prepared to ship in less than truckload quantities and absorb the extra freight.

We recommend that Canadian wines sold in Ontario be marked

up on the delivered warehouse price. We recommend that all wines classified as Canadian wines meet the Ontario requirement as to maximum amount of imported material allowed. Current regulations are 30 per cent per blend of imported wine or wine produced from imported grapes, juice or concentrate.

Consequently, ex-Ontario Canadian wines shipped to the LCBO should be marked up 123 per cent on landed LCBO warehouse cost, unless the ex-province seller can produce an affidavit that such product does not exceed 30 per cent of import content.

I would like to move on to the Ontario Wine Content Act, which is Bill 135.

The Wine Content Act, 1976, was enacted for a period of five years to allow for the importation of grapes grown out of Ontario, or the equivalent thereof in imported wine for blending with wine produced from Ontario grown grapes. This act is due to expire on December 31, 1981.

This act has proven beneficial to the Ontario wine industry and has been accomplishing its objective. The wine producers, with the support of the Ontario Grape Growers' Marketing Board, request an extension of this act. We recommend that the act be renewed commencing January 1, 1982, with the following provisions:

The act be renewed for the period January 1, 1982, to August 31, 1984. This will allow for the use of imported blending wine for the 1982 and 1983 vintage. It would also allow the continued use of blending wine for the 1981 vintage, for the period January 1, 1982, to August 31, 1982, under the terms of the current act.

The total volume of wine and lees from one ton of grapes is not more than 245 imperial gallons, including the blending wine.

The quota of grapes grown out of Ontario or the equivalent thereof in imported wine that may be used each year by the winery in the manufacture of wine is that amount of vinifera variety grapes that is equal to 15 per cent of the total amount of (a) the grapes grown in Ontario and; (b) the equivalent of grapes grown in Ontario in the form of juice or concentrate, that are purchased or acquired by the winery in that year. One ton of grapes grown out of Ontario is equivalent to 215 gallons of imported wine.

The percentage of grapes grown out of Ontario or the equivalent thereof in imported wine, or any combination thereof, used in the manufacture of wine shall not exceed the 30 per cent of the total content of the wine.

The next point is the Ontario Winery Assistance Program, which was introduced on April 29, 1976. The intent of the program when first introduced in 1976 was for the Liquor Control Board of Ontario to engender a climate in all stores conducive to the ready marketing of wines produced in Ontario, as related by Mr. William J. Bosworth, chairman and chief executive officer of the board in a letter to all wine consultants. A copy of the letter is attached in the appendix.

Also in appendix B, attached, is a copy of the specific program for the use of district supervisors and area managers for use in instructing store managers.

Unfortunately, since the introduction of the program, the assistance given to Ontario wineries has dwindled and it is considered imperative to the future of the grape-growing and wine-producing industries in this province that full support is again given.

We therefore urge your consideration of the following:

1. The present policy is to grant general listings to submissions made by Ontario wineries of which wines meet federal and provincial standards. This policy is appreciated and should be continued. We also believe that foreign wines be also screened by the Wine Standards Committee and be subjected to automatic discontinuation if failing to meet the standards.

2. Of the 280 A and B category stores, 74 of the larger volume stores are totally excluded from listing new Ontario products. Currently, there is no automatic distribution to any existing C or D category stores. A new product listed in two sizes receives automatic distribution for the second size in 16 predetermined stores only.

The net result is that a product introduced in one size is initially excluded from distribution in 65 per cent of all liquor stores and a product introduced in two sizes is initially excluded from distribution in 81 per cent of the possible number of liquor stores listings. Subsequently, wineries are forced to concentrate the efforts of their sales forces on liquor stores as opposed to the private sector.

The recommendation is for all A and B liquor stores to carry all currently listed and new listings of Ontario wines; for all C and D category stores to list at least 50 per cent of each wineries listings. It is realized that in some smaller-sized stores it may be necessary to restrict listings of a product to one size only and, in summer-only and mobile trailer stores, to have a reduced list prepared.

3. Currently, those stores included in the automatic distribution of a new product receive the product dependent upon whether the store manager indents for the inventory. The experience of the industry is that without constant policing of stores by industry representatives, the actual automatic distribution would be considerably less than 35 per cent for the first size.

It is recommended that the initial distribution of products under the Ontario Winery Assistance Program be the responsibility of the LCBO head office, and that physical distribution be automatic, as is the norm in other multi-outlet retail organizations.

4. Currently no more than six brands from any one winery may be given a general listing in the four-litre size. However, this

size represents a major growth. It is recommended that the restriction be removed.

5. It is realized that the above recommendation may create problems in terms of store, warehouse and shelf space. However, the Ontario industry has repeatedly recommended raising the general listing minimum quota for both Ontario and foreign wines to create space.

It is again proposed that subject to item two being accepted, the minimum annual board quotas be increased for all categories of wine, both Canadian and foreign, by 50 per cent, and that all brands, with the exception of one-of-a-kind products be automatically delisted from the system if they fail to meet the overall quotas. In addition, there would be a moratorium on listing any additional foreign wines under \$5 per litre or size equivalent, this price to be indexed to maintain proposed differentials.

10:40 a.m.

As an Ontario agricultural and production industry, we do not feel that being granted distribution for Ontario products by the government of Ontario's wine retailing system, the LCBO, should be deemed a favour which may be withdrawn at any time. We consider it to be the Ontario government's right, as it is the right of other countries, to protect their own industries. We ask, therefore, that the above recommendations not only be accepted but that they not be open to misinterpretation by those responsible for their implementation.

The next subject is wine in retail stores.

Wineries currently operate 123 company-owned retail stores. Of these, 62 are full-line stores and 61 are ministores normally located within supermarkets.

A freeze has been placed on the further expansion of ministores. On April 30, 1979, the Ontario government reinstated a 10 per cent winery retail stores tax. This tax is applied to the local retail dollar value less the Ontario retail sales tax portion. The loss of revenue to the wineries for the period April 30, 1979, to March 31, 1980, was \$1,7006,521. This loss of revenue has made the ministores in particular and a percentage of the full-line stores uneconomical.

The tax was previously removed to encourage expansion of winery operated stores to strengthen the Ontario grape and wine industry. We feel the reinstatement of this special tax after expansion had taken place is unfair. We recommend that the 10 per cent winery retail store tax be removed and the freeze on ministore expansion be lifted.

Sale of wine in grocery stores: The Wine Council of Ontario supports the sale of Ontario wine in grocery stores provided it does not result in any change in the sale of our products through the liquor board outlets. We believe the increased consumer exposure provided by grocery stores results in an increase of our

Ontario wine sales. However, we feel that LCBO stores will continue to represent the primary market for the sale of alcoholic beverages in Ontario and therefore our position in this market must not be weakened. Specifically, this involves maintaining our present ability to obtain new listings, assisted distribution, in-store displays and the markup differential for Ontario wines vis-a-vis imports as outlined in the winery assistance program.

In view of the potential impact of this change in our industry, we urge that there be an industry involvement in the planning process. A brief was submitted on August 29, 1979, to Mr. D.A. Crosbie, Deputy Minister of Consumer and Commercial Relations. This brief is presently being updated and will be submitted to the Ministry of Consumer and Commercial Relations in the near future.

In summary, we strongly emphasize the need for early corrective actions in the key areas outlined in our submission. In March of 1977 the BC government directed its liquor board operations to take strong initiatives towards the support of BC produced wines.

As the only other grape-growing region in Canada, BC wineries:

(1) are capable of operating more economically in the absence of yield restrictions--Ontario wineries are not;

(2) are capable of producing high-quality table wines without restriction on import content--Ontario wineries have definite restrictions;

(3) are protected from subsidized, low-priced imports through minimum shelf prices for such products--Ontario wineries are not;

(4) can recover increased cost of goods through more frequent price adjustments--Ontario wineries cannot;

(5) have mandatory listings of BC wines in the licensee trade--Ontario wineries have not;

(6) have seen a markup reduction made in 1977 held over the past several years--Ontario wineries have not.

Consequently, the BC wineries have continued to enjoy a dominant market position, whereas Ontario wineries have lost both market participation and adequate profitability during the same time.

We strongly urge for a renewal of major supportive measures of similar nature in Ontario to be openly annunciated and maintained.

Mr. Vice-Chairman: Thank you, Mr. Corbett.

Mr. Corbett: I am sorry it took so long, but it is quite detailed.

Mr. Vice-Chairman: That is quite all right.

Mr. Conde, do you have any comments you would care to make at this time?

Mr. Conde: No, I think in essence I was working with Mr. Corbett.

Mr. Sterling: I notice from the Canadian Wine Institute's presentation that there are nine or 10 major wine companies in Ontario. Are they all public corporations or what is the breakdown of them? Are they public corporations or private corporations?

Mr. Corbett: No, they are not all public corporations. Some of the major wine companies are public corporations, others are owned by other corporations, for instance, Jordan and Ste. Michelle is owned by Carling O'Keefe and Chateau-Gai is owned by Labatt's Breweries. Others are private companies, privately owned.

Mr. Sterling: In your figures do you get some confidential information indicating what the profits are from the private corporations as well?

Mr. Corbett: Yes, Mr. Sterling, if you would look to the appendix at the back under profits, the profits we are talking about are from the four major wineries in Canada, Andres, Brights, Jordan and Rideau, which is Chateau-Gai.

Mr. Sterling: So it does not include the smaller wineries?

Mr. Corbett: It does not include the smaller wineries. It is to be noted that in Ontario, although we have a number of wineries, I think the count probably is about nine now, in excess of 80 per cent of the business done in Ontario is done by the major six wineries.

Mr. Sterling: How many acres of land in Ontario are presently growing grapes?

Mr. Corbett: Twenty-seven thousand.

Mr. Sterling: And how many of those are owned by the major companies or by the wineries?

Mr. Corbett: I could not give you an exact figure, I could give you an estimate. My estimate would be under 1,500 acres, probably closer to 1,200.

Mr. Sterling: So most of the land is privately owned and the grapes are sold from the producer to the winery, is that correct?

Mr. Corbett: That is correct.

Mr. Sterling: It is a little hard for us to grasp some of the figures because they are so interrelated, so unfortunately

I do not know where the impact of your presentation is because there are so many figures thrown around. I know Mr. Ruston and myself were trying to figure out just exactly which percentages of which figures were the important ones.

I notice, though, that your percentage increase from 1978 to 1981 was something like 41 per cent.

Mr. Corbett: Correct.

Mr. Sterling: Then I looked at the costs you went over and there was only one cost that seemed to exceed that 41 per cent figure and that was the cost of sugar.

Mr. Corbett: You are correct, but the costs are based on actual percentages of dollars paid per item, whether it be per ton, per pound or per working man hour. The revenue is increased beyond that because of the fact that the volume has increased during that period, so the dollar increase is on a larger volume of sales from the period 1978 to 1981.

Mr. Sterling: You quote a figure which the Minister of Consumer and Commercial Relations indicated was 37 per cent, and then there was another figure of 36 per cent--I cannot exactly find where that is in your presentation--37 points profit and then on 36 points.

Do those two figures accurately reflect the difference in the taxation structure between imported wines and Ontario wines?

Mr. Corbett: I think what we are trying to point out is that the markup structure is 123 per cent for imported wines and it is 58 per cent for Ontario wines.

We have the situation, however, that Ontario wineries, being local, deliver on a daily basis to the Liquor Control Board of Ontario and, in many cases, deliver direct to the stores, whereas imported wines must be brought in from overseas, warehoused, distributed, and the inventory covered in cost.

I do not have the breakdown of their costs because they are not published to us, naturally, but we feel that this is true. I think in today's age with interest rates as high as they are and the fluctuation of currency, that the liquor control board has a real problem in maintaining the inventories required on imported wines. I am sure that the difference between 123 and 37 is quite realistic in their cost of operating.

I think the liquor control board could probably answer that exact question better than I am in a position to do. I have taken the quote from Mr. Drea.

10:50 a.m.

Mr. Sterling: Do you mean in terms of the warehousing cost for the imported? The 123 per cent is on the landed price, is it not?

Mr. Corbett: It is on the landed price in Toronto.

Mr. Sterling: They have to take into that all of their shipping costs before that 123 is tacked on?

Mr. Corbett: No, they mark the 123 up on their landed, delivered price at the warehouse, but now they must warehouse it and distribute it. So you have your warehousing cost, the cost of carrying inventory, the staff, in distributing materials throughout the store system right across Ontario, so there is a large cost involved there.

Mr. Sterling: Do none of the Ontario wineries use that same facility?

Mr. Corbett: Yes, we do.

Mr. Sterling: What percentage would there be in comparison?

Mr. Corbett: If we get into volumewise or storewise it becomes quite a different situation because the major stores, where the major volume is delivered direct on a one-week or two-week rotation, would use the distribution system as it is set up for doing the more outlying stores. Some wineries do deliver direct to the majority of these stores but, for instance, some of the companies would only deliver to up to 150 stores which are in Metropolitan Toronto, as far maybe as Oshawa, throughout to the Niagara Peninsula.

Mr. Sterling: Have there ever been figures produced on cost per ounce by the LCBO for delivering your product as opposed to an imported product?

Mr. Corbett: Not that I am aware of. They probably have the figures but I am not aware of them.

Mr. Sterling: You were mentioning something about exceeding 30 per cent of an import content. You would prefer that rule to stay in place.

Are all wineries in Ontario staying to 30 per cent or are there some exceeding 30 per cent?

Mr. Corbett: All wineries in Ontario stay within 30 per cent. We are audited by the Liquor Control Board of Ontario. We have a Wine Content Act that is in effect right now, it was passed in 1976, which allows us to import 15 per cent of our total purchase of Ontario grapes in the previous vintage, but we can put as much as 30 per cent in any one particular blend.

What we are asking is that any wines coming into Ontario to be sold in competition to ourselves, and taking the Canadian wine markup, also must live within the regulations that we live within.

Mr. Sterling: You are talking about BC wines.

Mr. Corbett: Basically BC, or it could be from the

province of Quebec or it could be from New Brunswick.

Mr. Sterling: I see, I did not even realize that they produced some.

Mr. Corbett: There are wineries in every province in Canada with the exception of Prince Edward Island and Newfoundland.

Mr. Sterling: The 30 per cent that you bring in and blend, that is not subject to a higher taxation clause or anything of that sort. In other words, 30 per cent of the foreign wine is getting a lower tax rate basically, is that not correct?

Mr. Corbett: Basically, it is, yes. The reason for that, I might point out, is because with the tremendous change in the market, from a dessert wine market 10 years ago to a table wine market, there is a problem in this industry of planting and getting the raw material to produce the product. This was put into effect in order to give us a supply of the vinifera grapes to blend with our Ontario-grown grapes to meet the demand, and this has proven very successful in certain areas.

That has got a deadline date on it; it expires in December 1981. Unfortunately the plantings and the growing have not kept up to the demand and we are asking for it to be renewed for a further year until such time as we can see if the plantings can catch up.

What it is doing is allowing us to use many more of the Ontario grown grapes in these products in the marketplace today.

Mr. Conde: Could I make a supplementary comment to the question by Mr. Sterling?

I think one of the key points here is that the 30 per cent, as Mr. Corbett outlined, is only set out by product, by blend. The overall allocation to any winery that wishes to import is 15 and based on different business philosophies product strategies, not all Ontario wineries have in fact participated in this importation of blending wine.

While we don't have accurate figures, I think it would be fair to say that the overall rate of importation has probably been around five to six per cent. And that is what, on aggregate, would be included in Ontario wines sold in this province.

Mr. Sterling: There's a mention in your report here about foreign countries subsidizing their wineries and their grape growing industry. What is the situation in California? Are there substantial hidden subsidies in terms of producing their wine?

Mr. Corbett: Not that I'm aware of, no.

Mr. Sterling: Are there ever subsidies which your--you mention the Europeans, there it's a tax-free industry or something?

Mr. Corbett: Yes, in most wine-producing countries of the world wine is not taxed in the manner in which it is in Canada as far as federal tax, excise tax, provincial tax, et cetera go.

It is considered more of a food product in the rest of the world.

Mr. Sterling: Are there any special subsidy arrangements for wineries in Canada that are now in place, that are not reflected in here?

Mr. Corbett: Not that I'm aware of, there are none. There might be some grants that have been given for special research, of that nature, but they are very minute in comparison to what we're talking about.

We read the Globe and Mail this morning and in the business pages there was an article about how we are trying to sell Candu reactors to Romania. And one of the things that they are negotiating for is that Canada buy wine from them as one of the articles to help offset the money problem. That is the type of thing we're referring to.

Mr. Vice-Chairman: Quite a tradeoff.

Mr. Ruston: Well, when farmers suffer losses on grain that way, they take tradeoffs. And now they're starting in the wine industry.

Mr. Corbett: We feel this is part of the problem and has been when you get into low-priced imports because if we look at the large-selling ones, many are from these countries we're talking about.

Mr. Sterling: In your submission also, you would like more access to the shelves in the LCBO stores. And our report from our researcher indicates that you already have significant advantages over other foreign importers and also I think a lot of other kinds of foreign spirits as well.

Mr. Corbett: I think what we're asking there, Mr. Sterling, is that the Wine Content Act was put through to give us this preferred treatment. We feel this is being eroded. We would just like it to be brought back to what was laid out during the wine assistance program.

We are not asking for increased distribution, or increased (inaudible). We're asking that what was set out be policed so that we are getting what is on the books today.

When it first started out, and it accomplished its purpose, we were getting the distribution. We feel, as an industry, that this has eroded and that it needs tightening up and policing so that we actually, in effect, are getting what you gentlemen feel we are getting.

Mr. Sterling: The only problem, of course, everybody wants that shelf space, be it your industry or the spirits industry or whatever. I thought the sale of wine really displaced part of the product, the spirits industry. In other words, people are switching from the harder liquor to wine. Isn't that so?

Mr. Corbett: We have a larger growth pattern than the liquor industry has, yes.

Mr. Sterling: And that has been increasing over the years. In other words, you're gaining on the liquor industry, is that not correct?

Mr. Corbett: Yes, I would say we are, but we have a long, long way to go.

Mr. Sterling: If the interior government at some point in time agreed to allow smaller grocery stores to sell wine--the greatest worry I have over that is the actual control of it.

You may be aware that there is a law against selling cigarettes to, I think, a person under the age of 14, without some kind of parental consent or authorization. When someone sends Johnny out for a package of cigarettes, I've never seen a child asked even if he has consent. How would we enforce that in terms of the corner store and that kind of thing?

The enforcement is the part that worries me, in terms of younger people getting access to it.

11 a.m.

Mr. Corbett: I think we enforce it the same way we have today. You have a liquor control board in Ontario which is operating 580 stores. The wineries are operating 62. We have the same problem. It is the clerk who must enforce it. It is a criminal offence for a clerk to knowingly sell a person under 19 an alcoholic beverage, and he is subject to prosecution. We are checked by inspectors regularly.

Mr. Sterling: Do you think it could practically be done though?

Mr. Corbett: Practically, I would say yes it can. I think they are proving that in Quebec. They have the same regulations. They are now selling wine through grocery stores.

I am not saying that a minor will never be sold a bottle of wine. Same as today, I don't think anybody can sit here and say we're 100 per cent successful in a minor not being served either through the Brewers' Warehouse, the liquor store or winery store. But they are not knowingly being sold. It's too big a risk for the person to take.

I am sure that the regulations would be set up, and all these stores would have to be licensed to carry wine, and if they were to sell to minors, they would lose their licence. The profit they are going to make on a bottle of wine to a minor compared to what they were gambling on, I think that would enforce it.

Mr. Sterling: What role do you think the government has in terms of restricting the access to alcohol in view of the medical facts--I think the rough figures are that it costs the Ontario, and I guess the federal taxpayers, because we receive

some in transfer payments, that alcohol costs about a billion dollars a year in terms of medical costs in Ontario. And that represents about 20 per cent of our medical costs.

And you look to freer societies, in terms of access to alcohol, like France where I understand that something like 50 per cent of the medical costs are related to alcohol-caused sickness. What is the role of the government, if we open up in terms of the sale of wine in grocery stores, whether it be by the kiosk or in a corner grocery store, it's going to mean increased consumption, is it not?

Mr. Corbett: Yes, I would say it would mean increased consumption. Our consumption rate in Canada, as you know, is very low compared to most wine-drinking countries in the world. We're down in the 10 per cent of say, France. We're talking about the health problem.

Naturally, we in the industry are all in favour of drinking wine in moderation. I do not feel that the alcoholic problem is as much a cause of the distribution system as it is a cause of society itself. There are reasons why people drink, and by making the alcoholic product hard to come by does not overcome the problem of people who wish to drink. I think we have found that.

You've put great restrictions on the sale of certain products in the northern areas, and I think if there are any members here from the north they will be only too happy to say that you have not solved the problem up there.

I think it goes deeper than just restricting the availability of the beverage. We are looking at wine being sold in the grocery store. That's a food product. And people tend to buy wine with their groceries, more so than they would be buying hard alcoholic beverages.

Mr. Sterling: But you don't think that there's enough access to it at this particular time, through the present distribution system in our province?

Mr. Corbett: I think we have a very good distribution system. I think it can be improved upon by increasing the distribution through grocery stores, yes. It has to be controlled. In our brief we asked that it be controlled. In the industry, we wish that it be policed by the Liquor Control Board of Ontario, that the people be licensed, that the shipments and so forth be policed by the Liquor Control Board of Ontario.

There is one point you mentioned before, Mr. Sterling, getting back to the imported content. One thing we didn't mention, is when the Ontario wineries import wine for blending purposes, you asked, is there a larger markup charge, and I had answered no. There is not a larger markup charge.

But one thing you must keep in mind. For an Ontario winery to import wine, there is quite a severe economic penalty to the winery. He still must buy the same amount of Ontario grapes, but he must reduce the amount of wine that he would produce from that

and the equivalent amount of wine he is going to import to be able to use imported wine. There is a freeze on the number of gallons he can produce based on what he buys. So everything he imports, he has to reduce the production of Ontario wine. So that that actual end gallon becomes a lot more expensive for him.

I just wanted you to note that fact. It is not a freebie type of thing. There is an economic penalty in place there.

Mr. Sterling: The recent excise tax that the federal government imposed was based on the alcoholic content, I believe, in the particular product. Is that not correct? There was some concern by the Ontario wineries as to the brandy or whatever; it would increase the selling price substantially.

Mr. Corbett: In Ontario the higher excise tax, compounded by the markup on a wine of 14 per cent alcohol or above, which includes ports, sherries, vermouths, aperitifs, et cetera, on a regular 26-ounce bottle, works out to be 90 cents per bottle. The excise tax moved from 55 cents a gallon to \$3 per gallon. Then the 12 per cent federal sales tax, which never used to be imposed upon the 55 cents, is imposed on the \$3.

So in reality we have gone from 55 cents to \$3.36. That, in turn, is marked up by the liquor control board at \$3.36 by 75 per cent. When you get to the retail level, that is marked up by a further 10 per cent. So in reality that excise tax now is worth in the range of--I haven't got the exact figures--\$7 a gallon when it reaches the retail stores.

Mr. Sterling: But you don't believe in the basic principle of taxation on the basis of alcoholic content?

Mr. Corbett: We believe that alcoholic beverages should be taxed in a manner in which they have been historically taxed. We do not believe in taxation by alcoholic percentage, no. We believe that wine is more of a food beverage than an alcoholic beverage.

I am not saying nobody will have a drink of rye or something with their supper, but that is not normal. But most table wines that we are talking about today are consumed in the setting of meals. That is the great growth in the industry, people consuming wine with their meals.

Mr. Sterling: In terms of the public health standpoint, wouldn't you think it would be better to tax on the basis of alcoholic content than another type of policy?

Mr. Corbett: I would not like to get into a discussion on the health aspects of it. We feel that wine is certainly not detrimental to the health in the manner other alcoholic beverages are.

Mr. Ruston: I want to ask a question or two with regard to the stores. I have never seen one or been in one, but you apparently have some stores that are next to or adjoining a shopping mall. If my understanding is correct, they are adjacent

to it, but not available to passage between the--

Mr. Corbett: These are the kiosk stores you are referring to within the supermarkets, yes.

Mr. Ruston: And they are operated by the supermarkets?

Mr. Corbett: No, they are operated by employees of the wineries. We lease the space from the supermarket and we provide the kiosk or the store. It is manned by employees of the wineries. The only thing we do with the supermarkets, or wherever they happen to be, is pay rent, so much per square foot for the use of the space.

Mr. Ruston: And that is an individual company so you just have the one product?

Mr. Corbett: Yes. They would sell only that company's products.

Mr. Ruston: Of course, as you say, if you had them in the retail stores, they could sell as many brands as they desired.

Mr. Corbett: Yes. In our brief we had suggested a formula of putting wine into grocery stores and the manner of how many brands would go in and how the brands would be allocated. In Quebec they carry approximately 50 brands in which each winery is allowed three. But the Quebec liquor board puts 15 of its own brands in as well, plus the cider, so you end up with approximately 50 some odd.

Each store is given a list of what he orders. They do not have the freedom to choose from a complete list of wines that a winery produces. It is regulated by the ones they can handle.

11:10 a.m.

Mr. Ruston: I am thinking now of small cities or towns. The liquor control board now has maybe one outlet in a town of, let's say, 6,000 or 8,000 population. And there is no other access to wine in that area, only the liquor control board store. There might be another town of 2,000 population, where, of course, there is a liquor control board store.

Do you have any feelings as far as the population of an area is concerned which is maybe not being properly served because there is only one store? That's what I am wondering about. Those are the things I hear people say.

Mr. Corbett: These are the comments we have received from some of the federation of retail grocers; that there are many areas where there are not sufficient liquor control board outlets for the population and that their store could better serve these particular areas. Now we're getting into the rural areas.

The liquor control board does have quite a number of stores. As you know, in some areas in the far north they also operate agency stores which actually are licensed and are part of a grocery or general store.

Basically, we are talking of taking 580 stores and, depending on how the government wished to do it, whether they wished to put them in independents only or in the supermarkets, you could increase the number of outlets into the thousands. So there would be areas served that are not presently being served.

What we hear from the outlying areas is there are liquor stores in the area but sometimes it's a 20-mile drive each way to get to a liquor control board outlet; whereas, they might have a grocery store within a three- or four-mile drive.

Mr. Ruston: I know you have some objections to the taxation and the markups of the board, which are, of course, set out by government policy pretty well. I think, though, society expects that it is going to have to pay for the privilege or right or whatever to drink an alcoholic beverage; they are going to have to pay something back to the public to offset the problems that creates.

Someone mentioned what liquor costs in health care. In the same breath I would ask, what does smoking cost in health care? It's probably many times higher than liquor, but that's a personal opinion.

I think the public expects, and I as a legislator would expect, to have to put a tax on alcoholic beverages wherever they are sold. I would have to decide, of course, how much I should tax and put it all in a bag and then start handing it out, whatever way you do it. But I do not think we can ever come to the point where, because wine may be served at the dinner table, it is not an alcoholic beverage and must not be taxed because of that.

Mr. Corbett: We would love to see that, but I am not naive enough to think we ever will.

I agree that people do expect taxation on alcoholic beverages the same as they do on other things, such as cigarettes, gasoline, et cetera. However, it is not the taxation we are really complaining about. It's the amount of the taxation.

In our particular areas daily we are getting comments and complaints that it has become too high; that the tax and the cost of our product has increased considerably.

If we take our example of the minimum-priced bottle of table wine in 1978, where we were shown the figures were at the lower markup, it was \$1.35 for a 26-ounce bottle. Today that bottle is worth \$2.60. That is a tremendous increase to have gone into effect over such a short period of time. We only picked up a very small portion of that increase as our figures show; federal and provincial treasuries picked up the majority of it.

Really, I guess our complaint is that we are being put in an extremely tight squeeze. The profitability of our industry is such that we cannot see continuing to expand in our industry. It is a tremendously capital-intensive industry. We are being faced with additional capital expenditures because of the changing market conditions. You go in and you spend literally millions of dollars

in the industry to meet this market, and the whole market can be changed overnight with the stroke of a pen in a budget. It is very difficult.

The farmer is faced with the same problem. Today he is looking at an average of \$7,000 an acre to buy and plant for grapes. He will not get an income back for three to four years. Within that period of time, what is going to happen? Is the market going to change? Are the prices going to go up so far that there is not a market for his grapes? Are we not going to have a market for our wine in the future?

We are looking at the long term. We have to have a stable industry to be able to operate and meet it.

I think we all agree here. We have 27,000 acres of vineyards. We have many large wineries within the province which employ a great number of people. We are looking for a stable industry to operate in. We operate under very fixed rules and policies and legislation. It is not a free-enterprise type of industry.

We are asking that we have a stable industry; that we aren't faced with continual change year in and year out every time the budget comes up, which has happened every year since 1977. There has been something that has happened beyond our control to change the profitability of the industry, the marketing of our product. As you can see, we are looking at 2.8 per cent return on our assets. All the people who are in control of our companies are asking for 15 per cent.

So when you go in today to say, "We would like X number of dollars to expand our operations, to convert our operations," if you're on the board of directors, I'm sure your first question would be: "Why? Your return is under three per cent. Why should we invest?" And we in the industry are faced with that every day of the week.

Mr. Ruston: I can appreciate that. I am not now in business but when I was I would sure have liked to have had 15 per cent on my investment, but that never came about.

You gave us the figures for 1978 to 1980. I appreciate there is quite a change, but I wonder if we went back to 1970 and found out what a bottle of wine cost in the store in 1971, for instance, and we can probably bring that into perspective because we can go by the 1971 cost of living. I am wondering if wine is that much more than it was in 1971, taking inflation into consideration.

Perhaps the government did not raise the tax as quickly in those years prior to 1978, but then there was pressure from financing and, knowing how the government spends money--and I'm not on the side of government, so I can say that in maybe a little different way--I am just wondering, to go in to buy to bottle of wine in the store today, whether most people working are able to buy that bottle of wine easier today than they did in 1969 or 1970.

Mr. Corbett: That is a very good question which I

couldn't answer right now because I haven't got the figures in front of me.

Mr. Ruston: I don't have them before me but I have to assume almost, and if I remember correctly--I must admit I didn't buy very much wine in 1970. It is only in the last five or six years that I get my couple of bottles every two weeks or whatever, and probably some besides that. But, in the years we have been buying it, I don't think the price of wine in the stores today is really that severe.

As you say, the farmer may not be getting enough, and I can appreciate that, because I know what it costs to operate a farm, but I am wondering if, over the period of years, that is where the government got you into some problems with their method of taxing and markups and so forth. Maybe they did not do it gradually, and gave you too much in the last year or two, which of course made it very difficult. That is very difficult for business when governments do that.

11:20 a.m.

Mr. Corbett: As you know, the excise tax was done in one fell swoop. We went from 55 cents overall--with the exception of champagne, which was higher and did come down. But your overall increase in excise tax was 185 per cent at one time. As I say, that has been compounded by the provincial markups.

Mr. Conde: I would add one other observation to the point that you have raised, and that is the market in 1970-71, the early 1970s, was very different from what we have today.

You just made the comment that only in the last four or five years have you become more or less a wine drinker yourself. What we really have seen is a change in the industry. Whereas in the early 1970s, it was largely the dessert wine product, sherries and ports, that the Canadian industry was selling--not really in the competitive frame with imported wines because that was a segment of its own--today we have developed wines which from the quality consumer acceptance point of view have become very good alternatives to imported wines. It is in that global competitive context that we as Ontario or Canadian companies have to compete.

To the question of what has happened to the inflationary increase of a bottle of wine relative to CPI or other major consumer items, I can only refer to some products that Ontario wineries have developed, good quality table wines, to compete with European imports back as little as two or three years ago, which today would cost you somewhere between 50-60 per cent more on the shelf than what they were when they were first introduced. In the last four to five months, with the impact of the excise tax and the compounded increase to the shelf price level, we see consumers switching back into import alternatives because the gap is narrowed.

One of the problems we are still facing is that unless the gap is reasonably wide there is this old adage of "if it is imported, it must be better," and they go back to that label.

Mr. Ruston: I happen to disagree with that old adage. It is overplayed not only in wines but overplayed in the automobile industry, although I may be biased because I am in the automobile area. I have had a little experience with handling some of them and I find that I just do not agree. I see some of the costs of repairs some of people pay for these imported cars, and compared with Canadian made, it is unbelievable.

I must say that I am not a drinker of imported wine. I do not think that much of it. I find that most people, not the real real connoisseurs, I know, but for many people it is like putting them behind a wall, everything covered, and you put out the glass; they drink it, and then you tell them what it is. Half of them do not know what it is. It is like putting some bar rye into a bottle of very, very special and fancying it all up with a blue ribbon and so on, and the guy forgets what it was by the time he gets it half down.

Mr. Conde: I am certainly with you on that point, Mr. Ruston. Some people do not seem to like it, unfortunately.

Mr. Rowe: I had some comments along the lines of some recent comments here so it has partially been covered. I hear quite often, as you do, that if it is foreign it is better, and so on. But I do know over the years there have been a number of very fine hybrid grapes have been developed here by our wineries. But, as Mr. Corbett mentioned, it does take a while to get the growers converted over, because you have to go out of production for four or five years, or something like that. That is quite a loss. Not many people are able or willing to go out of their income which they have developed into what would probably prove to be better.

I agree with you that we have developed some very fine Canadian wines from the Canadian grapes. I am just wondering how that program was coming along. Are we getting people switched over to those varieties of grapes which produce certainly what is considered to be a higher quality wine? Are you making progress there? Are there any incentives to the farmers to switch over, or what?

Mr. Corbett: Mr. Rowe, I think we are making progress. Our figures show that we are replanning and the plans for the replanning or the conversion of the vineyards over the next three years are approximately 700 acres per year. We have been converting for the past five years.

You are correct. It is very difficult because you are going to a farmer who has a paying crop and saying, "We would like you to pull out your vineyard and replant it with a hybrid, but you are not going to get a paycheque for four years." They can only do it on a very limited scale on a percentage of his acreage each year.

You also compound the fact because there are a fair number of the growers who are saying: "I may not be growing five years from now because I am 60 now. Let the person who buys my farm." So we have a problem that way. But I would say there is a positive

replanning program under way. It has been under way for the last five years. It will not happen overnight.

Mr. Rowe: In the meantime, are you able to duplicate what you are trying to achieve there by importing some concentrates to produce a very similar wine?

Mr. Corbett: We are not allowed to import concentrate. We can import fresh grapes, or we can import wine. Importing of fresh grapes, as you are aware, has its problems. Basically most of the people are importing finished blending wines and basically it is coming from California.

Mr. Rowe: It seems to me that one year a few years ago there was a poor crop of grapes because of the weather and so on. Were you not given special permission that year to import concentrate?

Mr. Corbett: Yes, in 1972.

Mr. Rowe: It was a special act, as I recall it.

Mr. Corbett: A one-year act. Yes, 1972.

Mr. Rowe: In 1972. Yes, I recall that.

We wish you success in the switchover because, as I say, it is the public attitude that many people think that because they are Canadian wines, they are not as good as some of the imported. I disagree because I have sampled quite a few--deliberately, I might say.

Mr. Charlton: Just a couple of quick questions about your comments about assistance to the Ontario wine producers. You were saying on the one hand--and maybe I am just misunderstanding so I would like to get it clear--that you were not really asking for a substantial expansion of the Ontario Winery Assistance Program, but just that you felt it had been eroded since its implementation.

Mr. Corbett: If we look back, Mr. Charlton, to what actually was in the wine assistance program, yes, we would like that to be policed and put back in its true form as it was presented.

I think the one thing we have asked for in this brief--and we also, I might mention, asked for it in 1976--is that there be a moratorium placed on listing new wines that are lower than \$5 per litre. I realize that you have wines on the market, and as much as we would appreciate a minimum price being set for there, once something is in effect, I do not think we have too much hope of you increasing them overnight to \$5. We would like a moratorium put on by adding to these.

I think if you look at the figures of sales through the Liquor Control Board of Ontario, the competition comes from the imported wines, which basically are selling in the vicinity of \$4

a litre. They make up the vast majority of the total sales of imported wines in Ontario.

We are not here to argue about all imported wines. We are here because we feel we have unfair competition because there are cases, although we are unable to prove it, that they are dumping them into Canada. We know they are landing them in Toronto cheaper than we can produce them from the raw materials we are buying. They have the freight, and so forth. They have got to have some assistance with the price of their raw materials and components, et cetera, overseas to be able to do it.

That is the only quarrel we have. We are not quarrelling with the fine French and German wines that are on the market here that are selling in the \$6 to \$10 range with our varietal wines. I think we have shown we cannot produce enough varietal wines. We sell all we can produce. We are talking about the vin ordinaire where the bulk of the business is. This is what we are referring to where we want some sort of assistance.

Mr. Charlton: Under that program then essentially we are looking at some marketing protections and marketing assistance.

Mr. Corbett: Yes. Getting it out onto the shelf.

Mr. Charlton: I would like to go on to your comments at the end of the brief in terms of--you refer here to the situation in BC. In relation to the first item, for example, about yield restrictions, what would you like to see done there?

11:30 a.m.

Mr. Corbett: We are just bringing up the point.

As you know in Ontario today, the yield restriction is 250 gallons of wine per ton of grapes. Along with the grape marketing board we have voluntarily agreed in our negotiations to lower that to 245. What we would like to point out is wine is produced in every province of this country with the exception of PEI and Newfoundland. As I pointed out, Ontario is the only province which has any restrictions about the percentage of wine you can produce from a ton of grapes. They do not have it in BC. They do not have it in Alberta or Quebec, which are the three main ones.

We are just pointing out, we are working under that restriction. We are not asking for that yield to be lifted. We are just pointing out the fact, and it is an economic thing we live within, that some of the other wineries or wine producing areas do not live within.

Mr. Charlton: What I am getting at is you are not even asking that kind of restriction be removed. To overcome whatever problem that causes for you, what kind of assistance are you looking for in this area?

Mr. Corbett: If you get back to the point where we say that Canadian wines must meet the restrictions the Ontario wines are produced under, we are talking basically of the import

percentage within that, that it be a maximum of 30 per cent. We have wines coming into this province which contain a much higher rate, anywhere up to 99.

Mr. Charlton: From other Canadian producers?

Mr. Corbett: From other Canadian provinces coming in and being marked up as a Canadian wine, but basically they are almost 100 per cent imported.

Mr. Sterling: If I may just ask a supplementary, Brian, you are having no trouble living within that regulation now, that restriction?

Mr. Corbett: Yes. We are living within that restriction. We are just pointing out that it is more expensive to make a gallon of wine under that restriction in certain areas in Ontario than it would be to make it in BC or it would be to make it in Alberta, because they do not have--

Mr. Sterling: We cannot control what happens out there.

Mr. Corbett: We realize you cannot, and we have not asked for anything there. We were just pointing out what BC is doing to support their industry.

Mr. Conde: The point that is being made is that there is a correlation between the economic yield that is taken from a ton of grapes, and the certain level we have voluntarily agreed to with the growers of Ontario who have concerns about how much wine is produced from a ton of grapes.

We are referring to that in the context of the market changes, the excise tax increase that we talked about in the earlier parts of the brief, which suggest that as they have grown significantly over the past two or three years, that voluntary yield restriction is adding another economic factor to our business.

Mr. Sterling: I just do not understand the yield restriction, if you do not want it lifted. You cannot produce a quality product without having some kind of self-imposed restriction, I presume.

Mr. Corbett: Yes. When we talk about yield restrictions, we talk about average yield restrictions. There are some wines you make far below the 250, but there are other wines you can make above the 250 and still have a very acceptable product on the market.

Mr. Charlton: Just to get back to it for a moment then. Basically what you are saying is that you do not need to get rid of the yield restrictions. What you need is more protection in the Ontario market in terms of perhaps restrictions by the government on wines from other Canadian companies that are imported into Ontario, and meeting the same standards that you are meeting.

Mr. Corbett: That is correct.

Mr. Vice-Chairman: Anything further?

Mr. Mancini: I still have some concerns which I do not think were thoroughly alleviated when we were discussing the fact of having wine sold in the grocery stores. I was not too sure of your policy on this because you said at one time they might be sold in the chain grocery stores. Another time it was mentioned that it might be sold in your corner grocery store. I was wondering if you would have a preference as to where the wine should be sold.

Mr. Corbett: The wine industry naturally is in favour of wider distribution. With the method of shopping by the Ontario consumer in Ontario basically being in the supermarket, we would like to see if wine is introduced in grocery stores that there be no restrictions on distribution by type of store.

I know there are different groups campaigning for it to be strictly independent stores or other groups wanting it open. We are trying to remain neutral. Our position is we would like to see it in grocery stores; we would like to see no restrictions on distribution; but we are not campaigning one way or another.

Mr. Mancini: If it is open that means every corner variety store, I guess, would have an opportunity.

Mr. Corbett: I think they are broken down into convenience stores, independent grocery stores and supermarkets. I think that is what the breakdown would be. I think it is a very political situation that you will have to measure and make your decision on how far you wish it opened up or distributed through what is strictly independents, or independents and supermarkets, or all stores.

We do run into a problem with hours of operation when you get into convenience stores, I understand.

Mr. Mancini: For example, in the town that I live in we have approximately 6,000 people and we have the one local liquor control board store. How many outlets would you like to see in a town of that size?

Mr. Corbett: If you are looking at it from our point of view, we would not like to place a limit on it. We would like to see it sold in the free-enterprise system.

We would not like to say you have got to limit that to two stores within a town of 6,000; it would be unfair to the grocers if you put it in grocery stores. How do you limit it to two if you have six grocery stores doing business in that town?

Mr. Mancini: It seems to me from some of the statements that have been made earlier we are going to have to be unfair to some people anyway, because if we are going to limit it to three categories of stores, we are going to be unfair to a great number of people, so I do not know if we can be unfair in one way and say that we can be fair in another. I do not know that that will compensate.

Mr. Conde: If I could add another observation, I think the truth of the matter at this point is that there are no clear answers in terms of what is a desirable approach. I think it is an area that, if and when it happens, it may have to happen very progressively phased in to get reactions on the part of the people of Ontario.

Mr. Mancini: Let me ask you, if the wines were sold in these independent stores or grocery stores, et cetera, what we have talked about earlier, how much of an increase in sales would you expect to occur? What does that mean to you?

Mr. Corbett: That is a very difficult question to answer. We know there will be an increase in sales.

The only place we had to measure was what had happened in Quebec where basically they had almost a doubling of the sales in the first year when it was introduced. But we also had tremendous labour problems in the Quebec liquor distribution branch during that period of time, where the warehouses were on strike, where a majority were working to rule, stores were closed for eight months.

I would not know how to measure, really. We think it will increase. Some say it will double. Somebody else will say it will go up 25 per cent. I think there would be a substantial increase, but to try to put a figure on just what the increase would be is very difficult. I think 50 per cent in a two-year period would be my own personal estimate.

Mr. Conde: It is a question of the range of distribution; the two are obviously intertwined. There may be an ultimate dichotomy or paradox in that the people who really would like to see it are the people who shop at supermarkets in metropolitan areas who would not frequent the independent stores if that is where it was available. The independent grocer in the rural area may not have a real large clientele for it because those people may well be content with what they have today.

It is really difficult to answer in policy terms before it happens.

Mr. Mancini: Have you given much thought as to how you would market these wines in these stores and how you would set up a delivery system?

I am not sure of this but I take it now that, since the liquor control board has so many outlets, they have a major warehouse and each store puts in its requisition for so many bottles of this or the other and then it is shipped to that particular store. Everything is handled in a very orderly manner and seems to be handled quite well.

It seems that our society wants liquor handled in that manner. It seems that if we were to open the market up, Ontario citizens would still want a fairly strict way of handling the distribution, et cetera, to make sure that if we say 20 cases of wine are going to this store, that is exactly where it is going,

that is what would be sold, et cetera. Have you given any thought to the marketing, because Ontario is a big province; there are a lot of miles to cover?

11:40 a.m.

Mr. Corbett: Most certainly there are, Mr. Mancini.

Yes, we have given a lot of thought in our recommendation that the distribution be controlled by the Liquor Control Board of Ontario.

Mr. Mancini: Excuse me for interrupting because I want to understand this. What you are saying you would like then is, say if there are two or three other stores in a town the size of mine who were going to be used as an outlet, they would work just like a liquor control board store. They would have to send in their requisition to the central depot and then a liquor control board truck would drive up and would deliver their order and then they would move on to the next one.

I do not know how many liquor control board stores we have but, just using round figures, instead of having 200 or 300, we would end up with 2,000 or 3,000. Is that what you are saying?

Mr. Corbett: No, I was going to expand on that. We would like it controlled by the Liquor Control Board of Ontario and there are several methods in which it could be handled if they do control it.

We would like to sell through the Liquor Control Board of Ontario. They could then distribute it with their own vehicles, as you have just mentioned. I think that may create a lot of problems because they would go from 500 or 600 stores up to maybe several thousand overnight.

I would think the way it would be done is that wholesalers who are carrying another complete line of food products would be licensed and would deliver wine along with the food products. This is the method that works in Quebec; you sell to the Quebec liquor board who in turn sells it to a wholesale distributor who in turn distributes to the retailer.

That sounds complicated, but a lot of that is paperwork, whereas the direct shipment may be from the winery, the liquor board would order and say, "Deliver X number of cases of your product to such and a such a distributor." He has to be licensed in order to be controlled.

Mr. Mancini: Have they had any problems in Quebec with keeping track of the wine?

Mr. Corbett: I would say under the circumstances it has worked out very successfully. They have not had the great problems because they went into a method of expanding it right across the province 100 per cent immediately.

At the same time it was complicated by their own labour

problems, so there were problems in distribution, but the main problem was in keeping the pipeline filled and keeping the stores stocked originally under the circumstances. But I think their system is working out quite well and I am sure our members of the Liquor Control Board of Ontario have discussed this with them and they are probably much more aware of how the system works than we are. From what we see from the outside, it is working well in Quebec.

Mr. Sterling: Could I ask a supplementary? Are they selling in Quebec, Canadian and foreign wines in grocery stores?

Mr. Corbett: What they are selling in Quebec is wine produced in Quebec only by the wineries or bottled by the Quebec liquor board and the Quebec liquor board would more likely be selling imported wines which they have bottled.

Mr. Sterling: Are you suggesting the same kind of a regulation here in Ontario to cover that kind of thing?

Mr. Corbett: We are suggesting that it be strictly Ontario wines. We are not suggesting that the liquor control board get into the bottling business.

Mr. Mancini: How many wineries are there in Ontario?

Mr. Corbett: How many licences have you granted recently?

Basically, we have, with the cottage wineries, 11 to 13. The reason we are a little bit dubious about it is because winery licences--we call them cottage wineries because they are small--I understand they are licensed to produce wine and there is no differential between a full-line winery such as a large one and the small cottage ones, but there have been quite a few opened up recently, although some are not on the market selling to date.

There are approximately 13 or 14.

Mr. Mancini: Of these 13 wineries, how many sell wine to the liquor control board to be sold to the public?

Mr. Corbett: They all would sell wine to the liquor control board, but some of the smaller ones, because of the limited amount of wine they have, would strictly be through a specialty store, or a rare wine and spirits store.

Mr. Mancini: Of these 11 to 13 wineries, how many would be giants? You mentioned that some are part of the cottage industry. Well what's the other side. How many are there?

Mr. Corbett: Basically, you have the four large wineries in Ontario and you have three mid-size, and then about three or four of the cottage wineries.

Mr. Mancini: I want to speak specifically about the four large ones and the three mid-size. I want to know a little bit more about their financial operations.

Is there much foreign ownership, if any, in any of these wineries, the four large ones and the three mid-size ones?

Mr. Corbett: Out of your four large ones, two are publicly owned, that is, Andres and Bright's.

Mr. Mancini: Okay, they're publicly owned, but who controls the shares of that company?

Mr. Conde: There is no foreign ownership. It's Canadian capital in all of those major wineries, Andres, Bright's, Jordan, Ste. Michelle and Chateau-Gai Wines.

Mr. Mancini: So there's no foreign capital in any of those?

Mr. Corbett: None whatsoever.

Mr. Mancini: What about the three mid-size ones?

Mr. Corbett: I really couldn't say. I don't think there is any foreign capital involved, but I--you know, when you get into corporations you've got to go way back up ladders, so I couldn't make a statement. I do not think there is any foreign capital involved.

Mr. Mancini: That's why I'm also concerned about the statement that in the four large ones there is no foreign capital, because with different types of financing that's available today in the corporate field--but you're absolutely sure about that?

Mr. Conde: In terms of ownership, in terms of the base financing, they are owned by Canadian corporations.

Mr. Mancini: So it's a 100 per cent Canadian owned, Canadian financed and also Canadian controlled.

Mr. Sterling: I can be an American and own a share in any of these Canadian companies, so that may or may not be true. You mentioned that one was owned by Canadian breweries, is that correct? Which one is that?

Mr. Corbett: Jordan and Ste. Michelle Cellars is owned 91.5 per cent by Carling O'Keefe.

Mr. Sterling: And who is Carling O'Keefe controlled by?

Mr. Corbett: Fifty-one per cent by Rothman's of Pall Mall.

Mr. Sterling: And Rothman's is an American company?

Mr. Corbett: No.

Mr. Sterling: Canadian? Montreal?

Mr. Corbett: The head offices are in Toronto. I'm sure their statements are available; it's a public company so--

Mr. Sterling: No. I just mean that you can't say for sure there isn't American ownership.

Mr. Corbett: As I say, when you become a public company-- You are correct. Basically, they are owned and run here, but you are correct. If they are on the open market there could be somebody who had shares who is American or from anywhere.

Mr. Mancini: The way the corporate system works now, you don't have to have control of a particular company's shares to be able to run it, because you might have control of another company that has interest in it through two or three other companies. If anybody has read the book on the Bronfmans, you can see that you don't need to have 51 per cent to be able to run a company. That's why I'm very concerned about that and asked the question.

You stated in the brief on several occasions that the profitability of the wineries is not as good as it used to be and foresee continued problems unless we address some of the solutions that you have suggested.

Could we have more detail on the profitability of the wineries? Do you have any profit statements for these corporations, in particular the four large ones and three mid-size ones, that group of seven, that you could inform the committee of?

Mr. Corbett: We do not have them with us, no. As I say the public ones are available. We can send them to you and the other two large ones would be part of the financial reports of the corporations that own them and they would be included within that report. So that they could be made available in that form, yes.

Mr. Mancini: I think when you come before the committee and say that the profitability is not as good as it once was, I think we need the figures to show that.

11:50 a.m.

Mr. Corbett: Fine. They are public knowledge, so there's no problem in obtaining them. That's why we included the four where it was available.

Mr. Mancini: I would like to have that information tabled with the committee, the actual profits made by the group of seven that we were discussing, maybe for the last several years. Nothing too much in detail, just profit and loss statement.

Mr. Corbett: A statement of profit and loss, yes.

Mr. Vice-Chairman: Any further questions? Gentlemen, we thank you for appearing before us this morning, and if we require further information I'm sure you wouldn't mind speaking to our clerk or our research assistant. And if you feel you have other information that may be vital to the committee in going over some of this material, please feel free to send it through to us.

Mr. Corbett: Very good, Mr. Davidson.

On behalf of the Wine Council of Ontario, I would like to thank you for taking the time to hear us express our views on the industry as it is today, and we appreciate the opportunity. Thank you.

Mr. Vice-Chairman: I see that our chairman has returned.

Mr. Chairman: What is the pleasure of the committee. Do they wish to adjourn now until two o'clock?

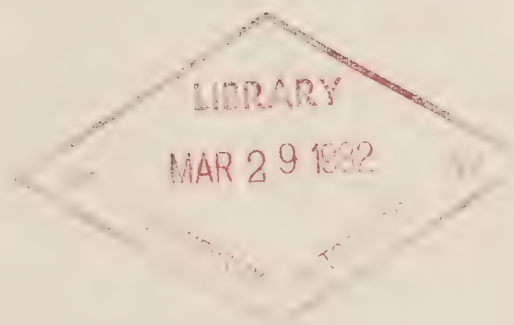
Okay, committee stands adjourned until two o'clock this afternoon.

The committee recessed at 11:50 a.m.

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STANDING COMMITTEE ON PROCEDURAL AFFAIRS
REVIEW OF LIQUOR CONTROL BOARD OF ONTARIO
WEDNESDAY, OCTOBER 1, 1980
Afternoon sitting



STANDING COMMITTEE ON PROCEDURAL AFFAIRS

CHAIRMAN: Breaugh, M. (Oshawa NDP)
VICE-CHAIRMAN: Davidson, M. (Cambridge NDP)
Charlton, B. (Hamilton Mountain, NDP)
Kennedy, R.D. (Mississauga South PC)
Mancini, R. (Essex South L)
Rowe, R.D. (Northumberland PC)
Ruston, R.F. (Essex North L)
Sterling, N.W. (Carleton-Grenville PC)

Research Officer: Eichmanis, J.
Clerk: White, G.

From the Ministry of Consumer and Commercial Relations:
Crosbie, D.A., Deputy Minister
Drea, Hon. F., Minister

Witnesses:

Halstead, B., Secretary, Ontario Division,
Association of Canadian Distillers

From the Liquor Control Board of Ontario:
Bosworth, W.J., Chairman
Jackman, D.H., Senior Assistant to General Manager;
Comptroller
MacInnis, F.A., General Manager

LEGISLATURE OF ONTARIO

STANDING COMMITTEE ON PROCEDURAL AFFAIRS

WEDNESDAY, OCTOBER 1, 1980

The committee resumed at 2:13 p.m. in committee room No. 2.

REVIEW OF LIQUOR CONTROL BOARD OF ONTARIO
(continued)

Mr. Chairman: The committee will resume. This is Mr. Bernard Halstead from the Association of Canadian Distillers. As is our custom in this set of hearings, we are going to ask the clerk to swear you in.

B. Halstead, sworn.

Mr. Halstead: Mr. Chairman and members of the committee, and also I am pleased to recognize the Minister of Consumer and Commercial Relations (Mr. Drea), and the chairman and officials of the Liquor Control Board of Ontario, and my colleagues in the wine industry as well. It was only yesterday that I personally was made aware of this hearing and we appreciate the invitation to appear. I was asked to attend as an Association of Canadian Distillers' staff member by the chairman of our association.

I just made some preamble notes so that I wouldn't stray too far. We're not prepared at this time to offer any rebuttal to the Wine Council of Ontario brief, nor would we be inclined to do so. However, I would be prepared to offer my own personal views and, if required or if it is the wish of the committee, I will recommend to the Association of Canadian Distillers that they prepare a more formal presentation for this committee.

The distillers are basically in favour of and support the liquor control system which has worked so well through the years in Ontario and throughout Canada.

Just an aside: It is little known that in the United States the 18 states that operate under the state-controlled system took their model from the Canadian system when their prohibition period ended in 1934. It is of interest that of the 18 controlled states who chose the system none has changed or reverted to the old open-licence state system. In fact, they did copy the Canadian system. There was a report written at that time. I could refer to it.

The Association of Canadian Distillers was formed in 1947, and since that time has served as the voice of the distilling industry in Canada. Canadian-produced distilled spirits are about sixth in the export of manufactured goods, amounting to exports of some \$300 million annually, of which Ontario provides the largest part.

Of interest, too, is the fact that total grain purchased across Canada by distillers in 1977 was valued at nearly \$48

million, according to StatsCan. Whereas, in comparison, as reported by StatsCan, total purchase of grapes by wineries in 1977 was valued at \$12.28 million, although this has now likely risen by a further \$5 million, as we heard this morning.

As can readily be seen, the value of distillers' grain purchases in 1977 was some four times greater than that of grape purchases in Canada, with a correspondingly greater impact on this sector of the agricultural economy; and I might say, particularly in Essex county.

You should know also that the Canadian distillers, through their affiliated import companies, collectively represent as much as 70 per cent of the sale of imported wines and imported spirits.

As you know, we deal with all provincial liquor boards in Canada and the territories. We have found our dealings with the Liquor Control Board of Ontario, in particular, to be businesslike, communications are open, and their efficiencies are first class. Of course, there are efficiencies of scale that only such a large organization could accomplish. I can say, with the present chairman in the room, and having known at least several past chairman through 25 years, that the relations between the distillers and the LCBO have been businesslike and, I think, efficient.

Distilled spirits products account for, perhaps, 75 per cent--in fact, more in some years--of the revenues from beverage alcohol products in Ontario.

There was a statement made by the distillers earlier this year to the treasury board. I would like to read it, if you don't mind.

It said: "To the extent that domestic distilled spirits are the main source of liquor board revenues, it follows that the attainment of provincial revenue goals related to the sale of beverage alcohol products is highly dependent upon maintaining domestic distilled spirit sales at levels which will produce expected revenues.

"We are aware that within the current fiscal budget the LCBO revenue target has risen to \$423 million, which represents a very sizeable increase from previous years. It is therefore apparent that revenue goals will not be achieved if there is further erosion of spirit sales due to inequitable marketing practices or if additional increases in spirit markups are introduced which would further depress spirit sales."

2:20 p.m.

The next point is perhaps a touchy one. But having in mind these rather enormous revenues--\$423 million, and that is without the retail sales tax on those sales and it is without the \$95-plus million from beer licence fees; or somewhere closer to \$600 million--to support this revenue base, the purchaser of spirits, in support of the whole distribution system, could be said to subsidize the purchasers of beer and wine to the extent that the

revenues are such a great proportion of the LCBO revenues.

As you know, on an average bottle of Canadian whisky the distiller receives something like 20 per cent of the retail price, the federal government 25 per cent--that would include the federal sales tax--and the province some 55 per cent, and that would include the retail sales tax. So only \$1.05 of retail sales goes to the distillers.

That has been repeated, but some of those things the public doesn't like to hear; it just passes it off and nobody seems to pay much attention to it. Except that I do know this; the revenues from beverage alcohol sales in Ontario are greater than the revenue from beverage alcohol sales in any of the American states. That is quite a statement, because some of them have populations much larger than Ontario.

The distilled spirits industry lives with this system. We don't disagree with this system. We are not suggesting reductions in taxes at this time, only an appreciation of the awareness that in the pricing of our products we live and die with tax on tax on tax; because, to the federal gallonage tax is added the 12 per cent federal sales tax on the tax, to which is added the percentage markup in Ontario, to which is added the retail sales tax in Ontario. And that is how goods are priced in our industry.

Mr. Sterling: Could you go through how that would operate on a product which you produce for \$1?

Mr. Halstead: Here is a breakdown of \$9.35 bottle of Canadian whisky.

The distiller receives \$1.90. I'll lump the feds: \$1.85 federal duty, plus 45 cents sales tax; you would have \$2.30. There is a freight factor of five cents. The provincial markup is \$4.25 and the provincial sales tax is 85 cents. So my original figures are close: 20 per cent for the product to the distiller, 25 per cent to the federal government and 55 per cent to the provincial government, of course, out of which they must operate the best retail liquor store system in Canada. I don't think there is any question of that.

Mr. Sterling: How would that compare to the wine situation? Are the percentages much the same?

Mr. Halstead: The formula is the same. It is built up: producers' price, federal tax, sales tax at this point--which we have always paid, but which is only new in the wine business--which we think is wrong because it is not a 12 per cent federal sales tax, it is 25 per cent, because it's tax on the tax.

We have a brief at the present time in front of the Minister of Finance (Mr. MacEachen) to argue again that point. The Commodity Tax Review Board did look at that; they agreed in principle, but the dollars are there.

Then, of course, the provincial markup is added and the sales tax is added. So the structure is the same.

Now, there is a very big difference, of course, between the taxation base on distilled spirits and the taxation base on other products. But in principle it is the same.

Mr. Sterling: Where does the difference come, in the provincial tax or in the federal tax?

Mr. Halstead: Both.

Mr. Sterling: Both.

Mr. Halstead: The federal tax is much lower. We were discussing markups this morning, but the system is there and it is not a unique system to Ontario. It applies generally across the country, although some provinces are taking a second look at that position.

My next point was just an awareness of the fact that because of these revenues, and because our only window to the world is the shelf space inside a liquor store, and because of the enormous need of revenue, only to point out, as you must know, that it would take the revenue from four bottles of wine to equal the revenue from one bottle of spirits. That is just mathematical. That is a statement of fact.

It varies, of course, with the price of wine. Maybe it is not four, maybe it is three and a half, or maybe it is four and a half. It depends on which one you would take.

I have only two or three other points to make. One is the question of wine in grocery stores has a warning. I know there has been a lot of thought put into this situation. I revert to the fact that distillers, as a group, favour the liquor control system, although the distillers who are represented in the Association of Canadian Distillers who are in the fortunate position of being the reverse, in that we have two of the largest distillers in the world who are Canadian companies and who do business in every country of the world under every conceivable system.

If there was ever a change in system, then the distillers would be very pleased to provide information from every corner of the world as to how it works. Because we are fortunately in a position of having to compete with these countries. In fact, we're fighting for our lives: One, against tariff barriers in other countries; two, even to get Canadian whisky recognized as a type in some 28 countries in the world where we are hoping to make that creditable recognition that Canadian whisky is a product manufactured in Canada, under the laws of Canada, just as Scotch whisky has credibility, or as cognac has that credibility. It is a problem of the industry.

So I say that there is a warning because of the enormous revenues that are required by the government. Anyone with a pencil can figure out what percentage that is of the provincial budget. It has not been going up because the budgets have been increasing.

We have watched the wine in grocery store situation in

Quebec with some alarm. The Quebec liquor board is now faced with a problem; how to rebuild the traffic in their liquor stores. Mind you, their revenues are less than half of the revenues of Ontario, and there are historic reasons for that.

It is probably too early in the piece and it was confused by disruptions by labour and so on in Quebec, but it has been said that store traffic has dropped as much as 20 per cent. You can imagine if the store traffic dropped in Ontario, and looking at a rather large budget, millions of dollars could be diverted, not so much in purchase for purchase, because this is a convenience product, but for many reasons hard to assess the effect--8,000 grocery licensees in Quebec distributed through wholesalers and retailers who must earn something for doing the job.

The problems of control were mentioned this morning, after hours sales or long sales can be corrected by making them comply to store hours. They have problems of charge and delivery, lack of control, Sunday sales, and so on. It is a little early to know. I think--without even attempting to expand on this subject, merely to say, warning--it might affect the LCBO seriously.

2:30 p.m.

I had a point on provincial preferences. There has been a lot said about it.

The Association of Canadian Distillers, that is the president of every distilling company in Canada, signed an undertaking that we were, in fact, opposed to any balkanization of our business in Canada by the imposition of provincial preferences. We have only one remaining in Ontario, and that has to do with the favour of a markup on Ontario-produced brandy, and we know the reason for that was to dispose of a problem created by surplus crops and the distillation of certain amounts of brandy.

We hope that, by and large, a long way down the road all provincial preferences will be terminated in Canada. We have had the support of every province, including Ontario. We do not like to see any particular preferences, otherwise even such a thing as the free movement of people and jobs and all the other things may come up.

Coming close to home, we had a case the other day where one province wrote to all their licensees and said, "You will favour our products first." I do not know whether that is good, but it is a current issue, and I would just let you know that the distillers have taken the position that they are not in favour of any form of provincial preferences because we do business in every province in Canada.

I should say before I might be asked, the distillers have been slow to perhaps react to social awareness problems. We have a department now that is very actively engaged in this area.

The distillers of Canada recognize that the proper use of their product depends upon the good health and knowledgeable appreciation of the consuming public. The distillers have

committed themselves to the greater knowledge and awareness of the public through all means available to them in the conduct of their business. They are, at this point, finalizing a social responsibility code, also a national advertising code of the things our industry will stand for. We have supported the research foundations across Canada that are instrumental in bringing together a curriculum study in Ontario on education, feeling that prevention is better than cure, which has not been proven.

This is an area though, Mr. Chairman--I do not believe there is one person alive in the world who can answer all the facets of all the questions about the beverage alcohol business, which has been with us since the beginning of man. That is why the liquor control system in the middle of the range is an acceptable one.

I might also voice a concern of the distillers in Canada, a very serious concern because of their deep involvement in the economy, who are concerned not so much with the drop in per-capita consumption, because as a group the distillers are not trying to raise the per-capita consumption of their products, but there is a zero growth position in the distilled spirits industry.

In case anyone has any feelings that the distillers have any critical feeling towards the wine industry, that is certainly not so. Wine has grown dramatically. We hope it will continue to grow. There is lots of expansion left. The average per capita--I am not a wine man. Let us say the average consumption in litres is around 25 litres a year in the world, and if it is somewhere near eight in Ontario, there is all sorts of room for expansion without upsetting the distilled spirits business.

We feel, however, that we need the exposure that we obtain through the liquor board, we need the listings to keep alive, we need the space in the stores, and we need an orderly marketing process.

Gentlemen, as I said, if you wish me to have the presidents of the distilling companies coalesce on a presentation to you, I will see that they do so. I have been in the industry nearly all of my life, and if I can help answer anybody's questions, I would be glad to do so.

Mr. Chairman: Thank you, Mr. Halstead. You did raise a couple of points which perhaps we should pursue.

In your brief to the cabinet, you mentioned these two phrases which I think we should pursue a bit. One was you pointed out that there were some inequitable practices.

Mr. Halstead: That probably is the wrong word.

Mr. Chairman: Would you clarify that for us?

Mr. Halstead: I take back those words--inequitable practices. I think that was poorly chosen. I might only explain that any liquor store that has 2,000 listings or 1,800 listings, and if the revenue from a store depends very largely on distilled spirits sales, we are only saying that if the shelf space allotted

to distilled spirits were to be eroded, it would be difficult to maintain that position.

Mr. Chairman: Is that the kind of thing, for example--I am not sure--I guess it is a policy of the liquor board now that in the liquor stores there are displays of six-packs of beer near the front of the counter. You used to see that in a lot of rural areas where the liquor stores were where all spirits were bought. But it is a bit of a new phenomenon in urban centres to see at the checkout counter there is not only all of the listings and all of that stuff, but you would see the same thing at Shoppers' Drug Mart, little bins of the special of the day.

In a similar vein at a liquor store now you will see there is a little reminder of a pile of six-packs there in case you want to pick up one of those to take home. Is that the kind of practice that you were referring to?

Mr. Halstead: I am not complaining about anybody else. I am merely saying that the distilled spirits should maintain its position.

Mr. Chairman: You mentioned as well the markup policies. Would you elaborate on that just a bit?

You did go at some length to the matter of the splits in there between the federal government, the provincial government and the distiller. But would you elaborate somewhat on the policies of marking up the prices? As you know, there has been some slight change in the way the liquor board goes around that. They are doing it so regularly these days there are not even official pronouncements about it.

Mr. Halstead: I was merely answering Mr. Sterling's question as to how the markup policy works. As I say, we live with that policy. If by inference I would say that it is the end result of the tax on tax on tax situation, which I do not suppose anyone really likes, that is all I can say.

Mr. Chairman: By using the words, "We live with policy," I take it you are not all that happy with the policy.

Mr. Halstead: If you paid \$9.35 for a bottle, would you like it?

Mr. Chairman: It depends on what is in the bottle.

One of the things which we came across in the research on this matter, and you hit upon it as well, is the amount of money which is coming into the provincial coffers from the sale of alcoholic beverages in all of its forms. You said something in your presentation which we had not come across. I want to see if I have got it correctly. You said that Ontario gets more money in its coffers from the sale of alcoholic beverages than any other jurisdiction in North America. Is that right?

Mr. Halstead: I said, "In any other state in the United States."

Mr. Chairman: Is there a province in Canada which has more money going into the provincial coffers from the sale of alcoholic beverages than Ontario?

Mr. Halstead: No, because it is the most populous province and it would obviously be the largest.

Mr. Chairman: So in effect that is true. It is a true statement to say that Ontario makes more money from booze than anybody else in North America. Is that right?

Mr. Halstead: My source is the Distilled Spirits Association of the United States annual fact book, which sets out the revenues for various states. The reason why that statement can be made is that the larger states, California, New York, Illinois, operate under what we call the "open state system." They do not do the retailing, so they do not need the markup for retailing.

That is probably one of the reasons why they are below the total revenue dollars in Ontario. Most of it is licence fees in that case.

2:40 p.m.

Mr. Chairman: So there is nobody anywhere else in North America that is coming even close to the \$600 million Ontario is taking in, is that right? Is there anybody in that ball park?

Mr. Halstead: I think this would need a very careful--

Mr. Chairman: Perhaps one of the things you could do is provide Mr. Eichmanis, our research officer, with the source of the data, and if you have a copy of the data that might be of some assistance to us.

You mentioned at the end of your presentation the matter that you seem to have arrived at kind of a zero growth situation. Without going into whether that is a good thing or a bad thing, is it your opinion that at some point in time the markup policies of the LCBO will mean a decline in sales, is that really your concern about the markup?

While you are thinking of an answer maybe I will do a little filler here. It would appear to me, following the sales of alcoholic beverages and the markups which we have gone through in the last couple of years, for example, which have been regular, frequent and seemingly rather on the large side, that it does not seem to make much of a dent in the consumption. No matter what you charge for a bottle of hooch, people will somehow find that cash and spend it, and there does not seem to be much of a decline in it.

In a number of other countries, for example in Scandinavian countries, governments have really attempted to almost take a punitive stance in terms of pricing alcoholic beverages and the theory was, "If we charge them enough, they will stop drinking." That did not seem to hold true. Sometimes there would be a little dip in consumption but in the end it always seemed to come back up

so it seemed almost like a bottomless pit. You could nail them with whatever you could get and they would still consume alcoholic beverages and there was not much of a difference in sales no matter what the price was.

Mr. Halstead: Mr. Chairman, I am not an economist and I think it would need an economist to answer that question, for this reason. We are all living in a world of inflation. A number of years ago a \$5 bottle might have been expensive, a \$10 bottle was pretty expensive. We have seen products go now in the \$20 range.

We feel that there is a consumer and buyer resistance point and that point has to be picked in relation to the inflation graph. If it were to run ahead, there would be buyer resistance, of course. I think that would be the concern.

Mr. Chairman: Is it of concern to your industry that the sale of alcoholic beverages is, I believe, the fifth largest source of revenue for the province of Ontario now? In other words, you have gone at some length now--

Mr. Halstead: I did not say that.

Mr. Chairman: No, our research, I think, indicated that it was fifth in 1968, so it would probably be up a bit now.

Mr. Sterling: No, I think it would be down.

Mr. Halstead: It will be way down.

Mr. Chairman: Is it your concern that this whole form of taxation is just a wrong way to go about it, that you and your distillers' association would be better off if kind of a fair buck was charged for your product, in your definition of what is fair, and we moved to a taxation basis as a form of revenue rather than this kind of hidden taxation basis which is involved? I am sure that most people when they go to buy a bottle of rye are not aware that 80 per cent of it in there goes not to the distillery but to government in some form or other.

Mr. Halstead: They have been told many times, but nobody wants to listen.

Mr. Chairman: Would you and your association then prefer to see some more direct means of explaining to people that it is taxes that is at work at the local liquor store and not just the sale of alcohol?

Mr. Halstead: I think our position, Mr. Chairman, and I assume I speak for the distillers, is that we would be in favour of what you might call full and frank disclosure.

Mr. Chairman: You mentioned near the end of your presentation that you had discovered something called--I think your words are--social awareness. Would you elaborate on that a little bit? What do you mean by that?

Mr. Halstead: It means being good business citizens, which I believe our industry are.

Mr. Chairman: What precisely is a social awareness program? Are you talking about the industry itself sponsoring rehabilitation programs, sponsoring research, providing information to the public? What is the social awareness program within the industry?

Mr. Halstead: At this point more of an information program, which is unfolding more and more because we are working at it to make sure the public understands the implications. We are prepared to state our position and assist in the way of research, education and so on, and we are doing that actively.

Mr. Chairman: Would it entail--for example, now in the health system here in Ontario, a number of hospitals are having to go back to what they once did a great deal of and that is fund raising in the private sector. Health budgets being what they are these days, they are being told rather directly that they should go out and hustle bucks on their own.

If I were running a hospital, an obvious place to hustle bucks for a rehab unit for alcoholic patients would be to go to the distillers and say, "Listen, boys, kick in." And I think from the distillers' point of view that might be a rather nifty thing, to put a plaque on the door that "we not only caused the problem at one end, we are attempting to resolve the problem at the other end."

Mr. Halstead: If you wish to have a presentation from our moderation and research department, I would ask them to prepare such a thing. This is a subject on which I am not equipped, although I have been in it all my life, to answer these questions quickly because they are very complex questions.

Mr. Chairman: Does it have, for example, enough money in it to actually consider doing such things? Or basically is your social awareness program the preparation of some printed material which would be distributed somewhere? Or does the scope of the program kind of allow for participation in research or rehabilitation programs, or things of that nature, or is it limited, financially and otherwise, into kind of an information package which might be given out?

Mr. Halstead: All of this is under consideration by the distilleries and there is, as I say, within the industry, a growing awareness of this.

Mr. Chairman: Could we get some kind of an update from your staff people on the materials that you have got and where that program is at before we do our report?

Could I just finish with one other matter which you did not touch on but which a number of other people within the ministry have expressed concerns about on previous occasions? That is the whole matter of advertising and what you can promote; whether you can have the Carling O'Keefe wagon at a fair and whether or not

Adams can provide spot prizes for dances, all of that jungle of regulations and arbitrary decisions about what a distiller can do to advertise, and whether you can advertise on TV or just in magazines or in newspapers. Do you have any comments for the committee in that regard?

Mr. Halstead: No, Mr. Chairman, but I would be glad to ask them to provide you with the advertising code of the industry, which is being updated and is just at this point ready to be presented.

Mr. Chairman: The industry does not have a position either for or against the current policies regarding advertising or the sponsoring of events or all of that stuff? You do not have a formal position that you have ever put to the government saying, "This is crazy, if you can advertise beer on TV why can you not advertise rye?"

Mr. Halstead: There are at present two advertising codes in Ontario, one for distilled spirits and one for others and they are quite different. As you know, the distilled spirits industry does not use so-called electronic media. We are quite happy with the current position in Ontario but, over and above that, we are prepared to present the industry's own code that will be practised in advertising.

Mr. Mancini: One of your comments registered quite well when you said that you would like to see full and frank disclosure. I assume you were talking about the price of a bottle of liquor and the amount of taxes and where they were going to.

Were you thinking of something along the lines of the gasoline pump where they have, "This gallon of gasoline costs so many cents, with 15 cents to the federal government and 26 cents to the province"? Is that your idea of full and frank disclosure, to have it right on the bottle?

Mr. Halstead: I do not think so, Mr. Mancini. Although it comes to you sitting here now, I rather feel that almost any method you can think of at some time has been tried and carried on or discarded in some jurisdiction somewhere, and at this point I would not want to suggest that.

2:50 p.m.

Mr. Mancini: What did you have in mind when you said "full and frank discussion"?

Mr. Chairman: Are you suggesting there should be little signs in the liquor stores which would say, "Schenley's charges you \$1.95 for this booze and the remainder is graft for both levels of government;" that kind of a sign?

Mr. Halstead: I do not think that is a word that we would condone.

Mr. Chairman: Choose the word.

Mr. Halstead: We are not suggesting that the government does not need money, neither are we suggesting that the distilling industry should not be part of that.

Mr. Chairman: Thank you very much, Mr. Halstead.

The next witnesses are from the Liquor Control Board of Ontario. Mr. Bosworth is the chairman, Mr. MacInnis is the general manager and Mr. Jackman is the senior assistant. I see that the minister is present.

Are there any other people that you want to have come before the committee? Could we get you to come up to the microphones?

Hon. Mr. Drea: There are other people here, Mr. Chairman, if they are needed. I think we should have the deputy minister, Mr. Crosbie.

Mr. Chairman: Mr. Drea, you are aware that we have this little procedural thing about testimony before witnesses so we are using the procedure of swearing people in during the course of these hearings. What we have done in other cases where there is a fair crowd of folks is we ask one person to introduce everybody and we just take them as they go.

Hon. Mr. Drea: Perhaps Mr. Bosworth, since he is the chairman, can introduce.

Mr. Bosworth: This is Mr. Jackman, the comptroller, Mr. MacInnis, general manager; I am Bill Bosworth. You all know Mr. Drea, and Mr. Crosbie is the deputy minister.

W.J. Bosworth, sworn.

F.A. MacInnis, sworn.

D.H. Jackman, sworn.

D.A. Crosbie, sworn.

Mr. Chairman: We have a rather embarrassing little pause here. We are not quite sure whether a minister of the crown should be sworn. If it is okay by you.

Hon. F. Drea, sworn.

Mr. Chairman: I thank you for saving us a procedural wrangle.

Hon. Mr. Drea: Oh, no. I do not know what the thing is but as long as we are in a group together I think it would be somewhat unfortunate if not, which I guess is without prejudice towards the future. I will tell you I used to sit on that side of the table and one thing I swore as a minister is I would never give anybody a procedural wrangle, so if I have done nothing else I have done that.

Mr. Chairman: Mr. Bosworth, would you like to lead off

with some remarks? The normal procedure here is we like to give people an opportunity if they want to say something in response to the research documents which have been prepared or get something else out. We give them the opportunity to do that and then, by tradition, we go through some leadoff questions which our researcher has prepared and then we open it up. We attempt to keep it as informal as possible.

Mr. Bosworth: I was under the impression that we were here to answer questions and I am ready.

Hon. Mr. Drea: If I could just make one correction, and I really think it is a matter of semantics, in the research document there is a phrase in there that says, "The minister and the Treasurer have absolutely tight control." There is no question that the Treasurer, in the terms of markup policy, that is his. In terms of the LCBO and the relationship with the minister, which is outlined rather fully in a memorandum of understanding which you have, there is not tight control by the minister.

In terms of policy, I suppose in the broad sense, there is. But in a great many day-to-day administrative decisions, there is nothing that comes to the minister.

For instance, I would not like to leave the impression that the minister picks out the site for every store. That's a day-to-day administrative decision based on criteria. I suppose the minister might get involved if there was a dispute with a municipality over a zoning thing, or something like that.

Since the introduction of the new act in 1975 and the memorandum of understanding there, while the Treasurer's role is still absolute--indeed as the minister, I am only the Treasurer's agent; I have no formal input into markup--on the day-to-day administration of the board I would be prepared to say that 99.5 per cent is so routine, and is built into a procedure within the board, that the minister never sees it.

I understand the point that was being made in the original research brief, and it may be just a question of semantics, but there isn't that type of control by the minister who reports to the House for the board.

Mr. Chairman: Let me go through these leadoff questions then.

What is the likely financial performance of the board in the next year? We've had some discussion from others who made presentations, and a good deal of documentation here about the rather large amount of money which is coming in through the revenues raised through the board and its various phases. Can we anticipate a change? Are you projecting larger increases in revenue, fairly stable over the next few years? What is the picture likely to be?

Mr. Bosworth: We're projecting a profit of \$453 million this coming year.

Mr. Chairman: That's your projection of--

Mr. Bosworth: And I believe we're on target now, Mr. Jackman?

Mr. Jackman: Yes, we're very close to target. That's the first quarter results.

Mr. Chairman: Does this entail then a halt in the recent phenomenon of rather rapid and regular markups in the price of alcoholic beverages?

Mr. Bosworth: I can't answer that because that's up to the Treasurer. We have little or no input into markups.

Hon. Mr. Drea: I may be able to shed some light on it. I don't think that the profit figure is the result of the markup. You have to bear in mind that for two years there was a freeze on prices, which was imposed by the then Treasurer, Mr. McKeough.

The freeze on prices was to try to find a better way of dealing in currency. That was the real problem, when the Canadian dollar went from a premium on the American dollar down to 85 cents. And that freeze was in there to stop the almost daily fluctuations, because of the currency demise. If you recall back in those days the currency was really plummeting all over the place very suddenly.

In hindsight, keeping the freeze on was a mistake, because what happened was you had a period of very high inflation as well, particularly in the wine industry, the foreign wine industry. So that the profits, the bottom line in that two-year period was artificially low. In fact, every bottle you were buying in, say 1977, literally was subsidized because while the prices were going up, the base price by the supplier, particularly in a foreign field--the domestic producers had to stay the same--while their base price was going up, the board couldn't reflect that base price. It had to stay at the same. So there was a kind of an artificial jump, a catch-up jump if you want, in 1978 particularly.

3 p.m.

Now in 1979 and 1980, in the report that will be issued-- Could I just digress for a moment? I have no hesitancy about giving you the latest report, except that it is only now being filed with the House. So we've got it here, and it's been filed with the Clerk, and I don't want to get into a procedural wrangle with somebody. And that wasn't available until last week, just in the ordinary course.

We had two inconsistencies in this period that will never happen again. The biggest one was the Quebec liquor strike. There is no question that our revenues were inflated enormously by the fact that for a very prolonged period there was a strike in Quebec. It started out as rotating strikes in the liquor stores, and then eventually spread to a very long and sustained shutdown.

And of course the liquor for Quebec was being purchased from Ottawa right on down.

You could see, in Hawkesbury for instance, there were literally lineups along the road. If the Quebec situation had been normal, that amount wouldn't have been sold. Large amounts were sold also in the beer field, because with the Quebec grocery store system for wine, the grocery stores weren't affected. So it was all high-profit items that were being sold. We were supplying two provinces.

And again, we've had a strike out west, did we not, where once again that is a distortion in the earnings? And the stabilization really reflects changing consumption patterns. What the distillers' association says is absolutely correct. The high-profit item in any liquor store is distilled spirits, particularly whisky.

With the trend away from whisky, even in the distilled spirits when they say no growth, it's going into white liquor. There's growth in vodka, gin, white rum, not in brown rum. More and more alcohol is being purchased in the wine category where there is not that same degree of profit.

So there are those two factors: the changing pattern of consumption; wine is going up at seven per cent per annum in this province, while total alcohol is going down. Some of that is not reflected in the LCBO business because it's in beer, but at the bottom line on the \$600 million, of course it is. So that the outlook, and we have told the Treasurer, based upon the present markups, it cannot be anticipated that there will be a rapid rise. Whatever the rise is, in terms of dollars, it will be barely above inflation.

I think the true measurement, Mr. Chairman, is in gallonage. When you look at the number of gallons being sold, you notice the trends in consumption. And what the projections are for the future, I don't know. If you had a very substantial and continued change in wine consumption--there are some people who argue that that is a temporary phenomenon tied up with white wine, and it will disappear as fast as it came. I don't believe it. I would think that as an ever increasing and ever ongoing thing for the province, the liquor profits, in all the dimensions, just aren't there; it would be a growth with inflation.

Mr. Chairman: Would you clarify for the committee what Mr. Halstead said just prior to your appearance here? Is it true that Ontario takes in more revenue than any other jurisdiction in North America from the sale of alcoholic beverages?

Hon. Mr. Drea: Well we're going to help you out a little bit on that. I would think that what he said is, at retail sale, yes. Bear in mind we have one distribution system. Now when you look at a state like California or a state like New York, they have taxes but a great deal of their revenue from alcohol isn't necessarily in the tax that comes through the retail store which is the private sector. You have a great deal of taxation at the distributorship level because there's a distributor's thing and so

on. But we will try and get you some information, and it may take us a while because we'll have to tell them in the United States what we really want, or they'll just send us their tax.

But what I will try to do for you, and I've been thinking about it for a moment, is take a couple of big ones like New York, Pennsylvania--because Pennsylvania has virtually our distribution setup. You have to get listed with the board and so forth and so on. In New York you get a distributorship and there are private liquor stores out there; you hussle your own market--and California, which is a big wine consumption place. And we will try and work on something like Illinois, which has a population of about eight million, with a per capita and give you a complete breakdown on the taxes.

Mr. Chairman: Mr. Bosworth, I want to ask you a question. The committee, in looking at a number of agencies like yours has spent considerable time now on the relationship between the agency and the government, and has done a lot of work in terms of trying to clarify what the relationship really is.

Has it been formalized? Is there a memorandum of understanding between the two parties? In other words, the basic idea of an agency like yours was to set up something which was not a part of the government, was an arm's length away and functioned on its own, so you got away from this concept of, "Why do we not have the ministry run the thing anyway?" and the old arguments back and forth that we periodically get into.

It has been fairly clearly established here, though, that the price of beverages which you buy in the LCBO really has more to do with the Treasurer of Ontario than anybody else. This minister kind of said, "It is not me who is marking up the booze, it is the Treasurer."

This relationship has been the subject of a good deal of study by this committee and we are not clear how it is you have an agency like the LCBO out there which is really subject to the desires of the Treasurer of Ontario. Can you elaborate for us on what the relationship is?

On a number of other occasions, one would have said that is totally inappropriate. If you want to do that, you run it through a ministry. But if you go through all the time, trouble and bother of setting up another agency like the LCBO, you leave them alone.

In particular, I would think the members of the committee might be interested in the concept of using the sale of alcoholic beverages as a substantial revenue source. I would like to get you to put on record your comments on those areas.

Mr. Bosworth: I am an employee and I do not set policy. Your first question was do we have a memorandum of understanding. We do. I think you maybe have a copy of it.

Mr. Chairman: Yes, we have a copy here.

Mr. Bosworth: We operate under that memorandum of

understanding. The Treasurer does set the markups, if you want to call them markups, or tax. We do not.

We are responsible for the operation of the roughly 600 stores. We buy the product. We try to get it to the consumer as economically as possible. We do a billion dollars' worth of business a year. It is just that we are running a business. The only thing we do not have control over is the markup.

Mr. Chairman: Okay. That is precisely the point I think we will pursue a little bit.

For example, to take another agency which has been before the committee this year, the Board of Ophthalmic Dispensers. That instance is maybe a classic concept of the agency principle in operation. If those people, for example, were told by the Treasurer of Ontario, "We are not getting enough revenue out of the sale of eyeglasses in this province, because we collect the provincial sales tax off that," and went to them and said, "Listen guys, why don't you jack up the price, sell more eyeglasses to people around the province?" they would all go crazy. Because the concept they are operating under is that they are an independent agency, self-governing; they set up shop and they have an act of this Legislature under which they operate, and away they go.

In the case of the LCBO, it is an entirely different thing. I want to know whether that is a satisfactory way for you to operate. I understand that you are an employee. I am not asking you to blow the whistle on your boss here, but does it create problems for you that the Treasurer uses the LCBO as a revenue source?

Mr. Bosworth: No, it does not. I was aware of this when I took the job. I knew this was the way it was and it does not create problems for us. The Treasurer knows how much money he needs from us. I do not. I am not a politician. We have nothing to do with running the government. He asks us for so much money and he tells us how to get it, by markup. I think that is about all I can say.

Mr. Chairman: Is there then any sense in having you operate as a separate independent agency? Why not have you run as part of Mr. Drea's ministry?

Mr. Bosworth: I think that Mr. Drea should answer that.

Mr. Chairman: Would you like to take a shot at it?

3:10 p.m.

Hon. Mr. Drea: I think the fundamental point is the LCBO is really unique from other agencies because it is the sole distributor.

When you are talking about ophthalmic dispensers, they are buying their raw product from somebody else who is fabricating it in their shop. There are a great number of them.

The LCBO is far more than just a retail establishment, as you know. The LCBO, although the public never sees it because it is done from the back of the place, is the bulk supplier to all the hotels. Nobody ever asks, where does the hotel get its product from? It comes from the same liquor store that you buy your bottle in.

The LCBO is a major purchaser as well. When we buy a Scotch whisky, we are in England, taking quotes, et cetera. The distilleries, for instance, have no other way of distributing their product except through the LCBO and nine other liquor corporations that happen to be provincially owned. So there is a difference there.

I think that what you may be alluding to is a different approach, that instead of markup--I do not like markup because it implies that the LCBO marks up; the word is really "tax," and how you get to the bottom--the whole thing is tax. They call it "profit" and "markup" because we run the stores.

If we were in the United States where we did not run the stores or the distribution thing, we would call it tax just the same as they do. Obviously, the Treasurer--in our system of government, it is non-negotiable, the ability to levy taxes. The Treasurer, in his budget, levies or dispenses taxes.

I suppose the LCBO gets on the tail end of the Minister of Revenue because he administers a sales tax that is collected. But in terms of the memorandum of understanding, you have some things in there that I think are quite properly run by an independent board rather than government. Number one is listings. What product will you sell? I am not talking about Canadian products because I think you are obligated to sell Canadian product provided it is of a quality.

There has to be some discretion and some judgement on what form of product--and I am not talking about the United States so much. If the LCBO was to take every available alcoholic beverage product, beer, wine, or distilled product, in the world, every store would literally be the size of Queen's Park just to stock it. So there have to be business decisions made, and the LCBO is in complete charge of that.

You have quality control. Remember they have laboratories that test the thing because when you get into health problems, it is not necessarily the alcohol. It may be that the particular beverage or the variety that you are drinking has a lot of impurities in it. We have that with eastern European country products. They are not as advanced, for instance, as we are.

If you want tequila, for instance, would you take what is available from a Latin-American country? There is a very hefty testing on the quality compared to buying tequila at a higher price from say a Mexican distillery, which has higher standards than other places, or even a California distillery that is making it. So that in terms of quality control, there is obviously a proper role for an independent agency.

In the selection of the location, there have to be criteria established because it is a marketing arrangement; it is a monopoly. It has to attempt to be convenient to the public.

Because of the volatility in terms of advertising and the advertising controls in the beverage alcohol industry, even the layout of a self-serve store becomes very significant. What product is here--and there is also, bear in mind too, the social responsibility. It is not like a supermarket where you put a high-ticket, high-priced can of peas up on the front row because it will attract attention to the other ones. Whatever you are doing in there in terms of display, there is still a social responsibility.

All of these things are day-to-day operations that a board at arm's length from government can do more efficiently and better than the ministry. I am talking about the reporting ministry doing it.

The dichotomy about the tax thing, I suppose there is another route in that we could do unto wine and distilled spirits what we do to beer, just a gallonage tax. Then whatever the retail price is, it is not affected by that.

I really think that would have to be dumped on the Treasurer because your bottom line would be the same. When I raise these questions, the argument always is, "Look, if we have got \$600 million this way, we change the words and apply the thing and work out a formula, it would still come to \$600 million."

Mr. Chairman: That is precisely the problem in looking at agencies like this. When we have established that there are agencies out there and they are going to function, and this is the way they should be set up, and there should not be direct interference on the part of the ministries in the work of the agencies, then you come to something like the LCBO where clearly the Treasurer of Ontario uses that as a tax source and a rather high revenue source.

It seems odd that we have somehow evolved into a system which says that while, yes, for purposes of what you are going to sell in the store, how you are going to lay out the store, where the store will be, all that, we want you at an arm's length, we do not want to be involved in that, but for purposes of raising money, we are going to tell you how much money to raise and go out and get it. That does not seem to quite fit.

Perhaps, as you say, even though it might be an argument in semantics, maybe the wording ought to be changed.

Hon. Mr. Drea: I think too, if this was not alcohol, and I think we have to remember the social factor, because you are obviously not out to sell as much alcohol, regardless of the consequences--I am not saying alcohol is a bad product. I happen to think it is a very beneficial product. But if it is abused it becomes rather devastating. That may have something to do with it.

But I think the real thing, and I do not think you will find

another agency like this, is the fact that the agency really starts off with the product, that nobody else touches the product from beginning to end.

In other words, they buy a case of whisky from the distillery. The distillery ages it, it is true, in its own plant. But the moment it leaves Seagram's or Schenley's--or I should say Carrington's, they just opened a new one: "Export to the United States, we are doing all right; jobs." The moment that leaves that plant, nobody else ever touches it except them. There is no alternative out there. With wine it is a little bit different, but it is basically the same. But there is nothing.

If we decided, for instance, that we were not going to buy much Scotch, you do not have any alternative in the stores. If we cut from 40 brands to 20 brands all of a sudden, I guess you could use--we are not going to. They are in total control.

I do not think there is any other agency of government that I know of, at least none that have ever been under me that has that--

I suppose a comparison might be, for tax purposes, the racing commission. The tax takeout is established by the Treasurer. That is not negotiable. That is seven per cent on the dollar wagered through the mutuels, the Ontario share. That goes into the consolidated revenue fund. The racing commission has no control over what the takeout is.

By the same token, out of my budget, I have to provide four judges, et cetera. The judges make the event go on, but the track independently runs it. We do not own the racetracks. I rather suspect if we physically owned the racetracks and had total control therefore over the product, I think you might come into a like relationship as with this agency.

When you look at the parameters of it, particularly the storage, distribution, warehousing, all of this, it is kind of unseen. It is not a sales agency.

Maybe this is one which is unique and has to be looked at. Since you have this system, and since it is very unlikely that it will ever change because of cost--you know the real assets of the LCBO, if it were to be sold, are not by government accounting at a dollar. It is really valued as best anybody can at about \$3.5 billion in assets. So it is not going to be sold.

Maybe the difficulty for the committee might be in trying to compare it with something because it really is not comparable.

3:20 p.m.

Mr. Chairman: In the setup of the board, is there anything that might change in the foreseeable future which would substantially alter that financial picture and improve its financial performance? In other words, do things like computerized warehousing system--do they hold in their hot little hands the opportunity to greatly increase revenues without changing the

price structure, or anything of that nature? Do you foresee, Mr. Bosworth, anything of that kind which would alter--

Mr. Bosworth: Not in the immediate future.

Mr. Chairman: Can you tell us if the board has any plans in the near future to improve customer service? Is there going to be a big new trend of moving to all self-service stores, or changing store hours, or any of that kind of thing? What is in the wind in that regard?

Mr. Bosworth: We have about two thirds of our stores converted to self-serve now, and every year we do four or five or six. We will eventually have all but the very tiny stores which are one-man stores and trailers, and that sort of thing, as self-serve.

Mr. Mancini: Do you do that to reduce employment?

Mr. Bosworth: No, because it really does not reduce employment.

Mr. Mancini: It does not reduce employment?

Mr. Bosworth: It is better customer service.

Hon. Mr. Drea: Actually, your computerized warehouses will help customer service by not having brands sold out. Remember we have to supply a whole province. There are times when a product runs out. It is okay to say leave your order and we will get it for you. We are not talking about the big volume things like Johnnie Walker Red, or Seagram's, or the Canadian whiskys, or so forth.

We are talking about a distilled spirit, a particular kind of schnapps or something like that, or wine. But that automation and computerization will make the board more flexible. There is a little bit of profit in it, but not terribly much. But being able to have an amount going out through the system so the customer is inconvenienced, being able to keep a better inventory and measurement, and so forth--

Mr. Chairman: How about--for example, the board is into now using temporary facilities in a number of the vacation areas. As I recall, about a year ago I went into a service station just outside Thunder Bay and found out it was not only a place to get gas for your car, but you could get other forms of alcohol in there as well. It struck me as rather odd. I had a little chat with the guy and he said, "Yes, we do this for part of the year."

I notice throughout Ontario now there are little trailers here and there. You kind of whip off to the side of the road and you have got yourself a liquor store.

Is that pattern going to be continued? Is it going to be expanded? In other words, will there be a whole lot of temporary liquor stores around Ontario?

Mr. Bosworth: We have roughly 65 of these so-called agency stores at the moment, and we will continue to expand them where they are necessary. We have not been doing very many--what, one or two a year, something like that?

Mr. Chairman: How do you determine where one of those goes, and who operates the facility?

Mr. Bosworth: They are only in northern Ontario, and they are in remote areas where it would not be feasible for us to put in a store. They are usually in tourist areas.

Mr. Chairman: One of the features of that which struck me as being odd, which I am sure must have caused you some internal problems, was that there is this big thing about the LCBO is not a private liquor store like Joe Blow in New York state, and that it is run by the government. It is all nice and clean, and there is nothing messy attached to it. Then all of a sudden you drive up to a garage and you find out it is a garage and a liquor store.

What criteria do you have for--is that contract put out to tender? Do you do market surveys in an area? Do you take requests to run pilot projects? How do you determine where it goes and who runs the operation?

Mr. Bosworth: These are usually requests. We do research on the person requesting the store. It is quite a lengthy process. We have to determine whether there is really a demand for it in the area.

Mr. Chairman: Do you have something like a manual or a set of criteria that you apply?

Mr. Bosworth: Yes, we do. We have guidelines for agency stores.

Mr. Chairman: Are they printed so that we could see things like that?

Mr. Bosworth: Yes.

Mr. Chairman: Would it be possible for us to get a copy of that?

Mr. Bosworth: Yes.

Hon. Mr. Drea: The overriding reason for it is frankly convenience. Other than the remote areas, basically it is for the convenience of tourists or transients. They are not going to be there in the wintertime. It is not worthwhile putting up a store and operating the rest of the year because you lose money. There is no question about that.

You also have communities that do not want a year-round liquor store. At the risk of opening up a can of worms, one of them is Minaki. Minaki wants a temporary store--they don't call it an agency store--in the summertime for visitors. They do not want

a wintertime store, because they claim there will be social consequences. Whether that's true or not I don't know. But quite often a community in the north will want one for the summertime for the sake of the lodges, tourists, et cetera.

You will say: "Look we're really doing a volume in there. Over a five- or 10-year period that we would have a lease on a full-time facility, we can provide employment." You can talk to the council and they'll tell you, no, they want the agency store.

Mr. Chairman: When you set up these agency stores, how do you compensate the individual who operates the agency store for you? Is it a flat rate or a percentage of business?

Mr. Bosworth: Ten per cent.

Mr. Chairman: So he gets 10 per cent.

Hon. Mr. Drea: And it's becoming difficult to find them. A lot of storekeepers and so forth don't want it, because one of their problems is that in remoter areas they would prefer somebody else handle it because you get people in there who are undesirable or who are intoxicated and the person doesn't want to sell to them. Remember the police and everybody are a long way away. There are a lot of stores now that are almost serving notice because of some bad experiences they have.

The other problem is that there is an expectation that they have to be open every day but Sunday. Some of them want to close early and the liquor sales are being held over their heads. They do beer as well, and there is a problem with the beer because they have to take back the empties. Sometimes it is difficult to get a contractor to haul it away by truck to a central depot where a brewery can pick it up.

We have been thinking out loud in certain areas, that perhaps off-premise sale in a hotel might be more desirable in terms of enforcement. I don't want to put too much into that. We have been thinking because--

Mr. Chairman: We have done surveys. For example, in other jurisdictions in Canada it is possible to go to the local hotel and buy a bottle of liquor over the counter and take it home. You might, perhaps in certain remote areas or wherever or maybe across the province, do that.

Hon. Mr. Drea: There appears to be less difficulty in keeping the peace in potentially troublesome situations where it is a regular hotel. I am not suggesting they have bouncers or anything else. But somehow when the hotel proprietor says, "Look, you are not going to be served in here any more until you learn to behave," somehow that is accepted. But when the person in the agency store tries to say, "Look, you're intoxicated," there somehow is the feeling that the bottle is their right, et cetera. And that would only be in the remoter areas.

The other difficulty is where you have certain situations, such as the forest fire situation of last year, it is very

difficult for the person who is in business to shut down suddenly when he is also the only alcohol supplier. You have other situations: snowstorms, et cetera.

I have had licensed premises people tell me--and again this is all in the remote area; you have to bear in mind that the law enforcement is sometimes just as remote as the area--that in certain troublesome situations around town, when something appears to be getting out of control, an emotional thing, or something, he just closes his bar at noon, and says, "When everybody cools down, I will reopen."

In an agency store it's pretty difficult to do that because most of them are a very vital thing in the community. Most of them are food stores.

Mr. Bosworth: Most of them are grocery stores.

Hon. Mr. Drea: It's pretty tough for him, when he has the rack of bottles in there to say, "I don't want trouble and there really shouldn't be too much more liquor sold," when he's the only food supplier.

I don't know how you balance. As I say, there is some thinking about it, but I don't want to leave the impression that we're looking at right across the province off-premises sale because we're not.

Mr. Chairman: Can I pursue this customer service thing just one step more? I guess there is an aura about the sale of alcoholic beverages in this province which is maybe not real.

3:30 p.m.

How do you deal with, as a board--and perhaps the minister would like to comment on this too--the discrepancies which are obviously there? For example, we have had a bit of discussion here today about the sale of wine in grocery stores. There are some places where it is physically inside a grocery store and you can buy wine. So in some places you can, in some places you can't.

We have had this ongoing discussion: will the corner stores sell beer? I have been in places in Ontario where it is the corner store that sells beer. Or you take your beer bottles in to Joe's grocery over here and then you go across the street to the LCBO to get whatever.

So there seem to be discrepancies. There are the kind of operating hours of the establishments. When the Republican convention was on, Windsor was operating at hours that nobody else in Ontario could do. There seem to be discrepancies there; whether we are talking about where you buy or the hours in which you buy or who can get special occasion permits, or just a vast variety of things. From place to place there are differences.

Hon. Mr. Drea: Yes.

Mr. Chairman: Has anybody ever brought to your attention

that maybe if you open up Windsor until three in the morning or something like that how can you do that in Windsor and get away with it and not allow it to happen in Toronto? How come a grocery store in Maynooth can sell beer and a guy in Oshawa can't--whatever?

Hon. Mr. Drea: I think it would be very unfair to ask the LCBO that, because all the things you raised are not the responsibility of the LCBO.

Mr. Chairman: They are the minister's.

Hon. Mr. Drea: Yes, to the extent that most of the things you mentioned are the Liquor Licence Board of Ontario, because it sets the hours and so on and it would license the stores.

I suppose what you look at, much as everybody in the Legislature did in 1974 and 1975 when the two liquor acts were being done, the first conclusion that everybody came to--notwithstanding all the advice about go the States; it's a very logical policy there--is there is no such thing as a uniform liquor policy anywhere, even in the United States where we consider it to be wide open.

For instance, to sell wine in supermarkets New York state must have a constitutional amendment and a referendum by all the people. Yet it sells beer in any kind of store with no such requirements.

At best, liquor policy is, in its broadest sense, always reactive to regional or local idiosyncracies. Where the problem is for the public is the attempt to standardize. I give you an example.

In northern towns where mines are on shifts and always will be, there is an argument that the man coming off from the overnight shift at eight o'clock in the morning--and it's really four o'clock in the afternoon for him--should be entitled to get a drink in a social surrounding. Then you try to adapt that on a uniform basis. How do you define a shift town, because not necessarily everybody is on shift work in a shift town?

The special occasion permit and the vagaries in it flow from the fact that unlike other jurisdictions--the Canadian one is virtually the same--you cannot drink except in licensed premises. In New York state, for instance, there is no need for it. You can drink in front of your house, you can drink in a hall. You don't get a permit; you just buy through the distributor, buy through the liquor store, or what have you.

Here you cannot drink anywhere except in licensed premises, so, therefore, if you are going into a hall that is not licensed, that special occasion permit really is a temporary licence for you. As such it has built up a heck of a lot of very imposing regulations, a tremendous amount of red tape, none of it written in stone, and so on and so forth. The end result is there is from time to time a public irritation.

I suppose the answer that immediately comes up is: Why don't you scrap all of it? The moment you go to scrap any of it, I will tell you that you get the interests of the hotels saying: "Look, we invested this amount of money in facilities because you required it for a licence. Now you've changed the ball game, how am I ever going to survive?"

For instance, you get into the thing about, should a hamburger stand be licensed? It really depends upon what kind it is. But how do you deny the person who likes hamburgers rather than filet mignon the right to have an alcoholic beverage in the proper surroundings? Okay, you go to do something in that and the restaurant industry says: "Look, by the regulations of 1968, when we first went in, we invested half a million in kitchen facilities. That guy is going to have a microwave oven for \$400," et cetera.

So there really isn't a simple way to get out of all the red tape. That does not mean in terms of policy-- As a minister I have tried for two years and in my view we have eliminated a lot of red tape.

But I will be honest with you. If I asked the first 10 people I met on the street, "Have you noticed any changes in liquor policy in Ontario in the last two years?" they would probably say, "No." If you asked hotel keepers, they would say that we are far too liberal with special occasion permits because the charities or the local group do not pay taxes, but they do. On the other hand, with the local group, they say we're in cahoots with the hotel keeper. And it just goes on and on.

Oddly enough, the only organization that is not criticized, provided the people understand that it is the Treasurer who sets the price, is the LCBO. Most of the other things are all in the LLBO. And to the minister; that's fair game. But I think it is a credit to the LCBO in terms of customer acceptance, because it is a monopoly, that you don't hear these things.

You don't hear, "Was your brand available?" And people say: "It is never available. I've had to switch brands." Or, "I couldn't have a party." You don't hear that kind of customer thing. It is always on the overall regulations, which are really government policy and the liquor licence board.

At a future time in your committee I think it might be beneficial to do the LLBO, because you won't run into this thing. The memorandum of understanding there is clear cut: Here are the regulations. The Legislature does the regulations; you carry out policy. It's a much more clearcut thing, even though it is eminently more controversial.

Mr. Chairman: Mr. Bosworth, the members of the committee have copies of an Ontario Human Rights Commission decision relating to a Betty J. Hendry of Brockville, in which it was found that the board was, in essence, in contravention of the Ontario Human Rights Code and practised sexual discrimination in hiring.

Secondly, there are clear inferences and identification in

here that this woman was told that to get a job in a liquor store in the Brockville Shopping Centre, she had to see a Mrs. Gwen Rosenberg, who was a member of the executive of the Progressive Conservative Party in the riding of Leeds.

In addition to that--I guess all members have heard this allegation countless times--I must confess that I am at a bit of a loss. For example, I had a gentleman in to see me last week who had an alcoholism problem; was an employee of the LCBO; was, I believe, fired because of that; went back to see them and said that he had been rehabilitated. We understood that there was a rehabilitation program which is in a number of private and public sectors these days.

That gentleman, too, was told to go and see his local member. What has the local member got to do with the LCBO? I don't understand that and I want to give you the opportunity to make a statement in regard to this particular decision and the general hiring practices of the LCBO, because you are going to get that allegation, and I want to get it out and give you the chance to respond to it.

Mr. Bosworth: I don't know who sent this person to his member. Was that somebody from the LCBO?

Mr. Chairman: Yes. He was from your offices on Lakeshore Avenue.

Mr. Bosworth: I don't know about the incident. But that's not normal practice.

Hon. Mr. Drea: On somebody who has been fired there is a policy. This may have been why the person was told to go to the member, to get the policy changed.

Mr. Chairman: That may be. Let's deal then with this matter of Betty J. Hendry of Brockville and the human rights decision.

The decision is fairly clear. There was sexual discrimination practised there. The decision includes at some length the persistent references that you get a job by going to see somebody who is a member of the executive of the Progressive Conservative Party.

Mr. Bosworth: I don't know what you want me to say about this thing, but I know what happened in Brockville. We didn't really think the decision was a good one. Betty Hendry went to the Ombudsman first and it was turned down by the Ombudsman.

I think it was a personal opinion of the fellow who heard the case. I do not think I can say very much about it except we thought the Ombudsman made a good ruling, we thought that was a very fair ruling. You probably have a copy of that.

3:40 p.m.

Hon. Mr. Drea: As the minister responsible for the

board, maybe it is easier for me to talk about it. First of all, I would have thought you would have been aware of this decision of the Ombudsman, which is January 5, 1978.

Mr. Chairman: Yes, I am aware of that.

Hon. Mr. Drea: The events in Brockville, which are inexcusable, the business about going to see a woman in somebody's riding office to get an application, those events took place in 1975.

I can assure you that since I have been the minister, which is since October 1978--I do not know what went on before that--I can tell you that any liquor store manager--and that is where you get an application, or you write him, but if you are in your local town you go to the liquor store and you get your employment application--any liquor store manager or assistant manager or clerk who has told somebody, "You do not get your application here, you get it in the Conservative riding office," his employment is terminated, period. They know that.

Secondly, I suppose when this decision came down, that on the basis of having won one, which is the Ombudsman, having lost one, which is the Ontario Human Rights Commission, I suppose the obvious thing would have been to appeal.

There was something that caught my eye when I read this and I immediately decided that was the most relevant thing of the whole report. That was in a particular section in here when the arbitrator was dealing with the facts at hand, particularly the fact that what really did the uproar was two or more clerks in there were physically incapacitated and could not lift, and there was a female lifter. The public was very derisive and this was the final straw, that the men were humiliated.

He points out in there that there is an onus upon the employer in a situation like that to take the flak, not the employee, and the onus is placed squarely. If there was a problem over this lifting, if there was a problem about the fact that this woman did not get along very well, these are really very incidental. The onus in today's society is upon the employer, that you get the situation fixed up, not the employee.

On that basis the decision was made that there would be no appeal and, furthermore, I think this is probably the most important because the obvious thing is when something like this has happened money does not compensate, I do not believe in that, but what is the LCBO going to do about the decision?

It is a matter of record, I do not know whether you have consulted with the Ontario Human Rights Commission or not, but the LCBO immediately got in touch with the human rights commission who said, "We accepted the remainder of the report, obviously you had to compensate," that that was outside of their thing, and she was not to get a job. That was another part of it, but the things about the monitorship, the need for a better affirmative action program so that there would be a visible monitoring of females who

are being brought into what is traditionally an all-male preserve, those have been accepted by the LCBO.

They contacted the human rights commission. The human rights commission will set up under their direction--not the LCBO's but theirs--how this affirmative action will be measured, and so on and so forth, and this will be made available. It is a two-year monitorship and it is to be made public.

In defence of the board I think it is very ironic. One of the difficulties in getting women, particularly into the self-serve store, has been the problem of lifting. We have had many casualties. I do not mean physically; they have just said after a while they cannot do the work.

I think it is ironic, I suppose, in this situation because the woman could lift and, as far as the public was concerned, the male employees in there were making a female lift. I suppose the argument being the male employee should not have to pull out his medical certificate.

I suppose we could have gone into the courts and gone into long and laboured explanations. I think you know me, Mr. Chairman, on that thing about the onus on the employer and--I have dealt with it in a previous ministry--an all-male preserve. I know many of the difficulties.

Indeed, I was very substantially criticized in the Legislature about female officers in correctional institutions being able to watch naked males, and so forth. Okay, but the onus was on the Ministry of Correctional Services to give full and fair opportunity to both male and female employees and it is now regarded as a model for many systems, like the LCBO, even with all of the difficulties and the lifting and trying to recruit women, and some of the things that will happen, not with the customers but in the internal operation. Whenever you change from an all-male preserve to a female one, the human element gets involved.

Not only will the board get cracking but we expect the human rights commission has got a blank cheque to monitor and to report in their own report to the Legislature as to how it is coming about. If they want particular changes, and so on and so forth, in recruitment, how we attract more women to apply, or anything like that, that will be done.

Mr. Chairman: How about the other side of this decision, the allegation that in this instance the store manager, Mr. Jim Jones, directed someone to the local Progressive Conservative riding association? And how about all of the allegations, for example, in my own experience, that no one in the liquor store would give you your application form and send you off but indirectly the word is given to you that you have to go and see somebody in that riding association executive? Then, a couple of days after you are hired, the adjacent Conservative member comes in to ask how you are getting along in your new job--all of that kind of an allegation. That really needs to be cleared up.

Hon. Mr. Drea: I went through this, and the board did,

last year with the standing committee on public accounts. One of the myths out there--and partially it is, I suppose, the fault of the board, the original business--I am not going to kid you, 30 years ago, sure, there was patronage. Twenty years ago, sure, there was patronage, particularly in a smaller town.

You will notice he refers in his dialogue to the fact that patronage has gone, but what he is concerned about is that in an isolated smaller community it still flourishes. It does not today. If it does, the manager is bounced.

I do not care who the member is. Let us just set aside what I call a little social need, because I think a member should have the right to draw to the attention of the board that there is somebody in the community, an older worker who has been laid off or something, and that that person should get preference. I think that is normal in any business practice. If the private sector does it, in a monopoly situation I think we should do it even more.

The application is in the store. What used to happen was that as a method of screening out you had to get a reference from your member. I remember Mr. MacDonald, your member, countlessly bringing up in the Legislature before the time I was elected about, "Why did he have to sign this thing?" The argument was that the local member knew the person and could testify as to his character.

The other thing is that until the last couple of years--and Mr. Bosworth deserves a great deal of credit in this, as does Mr. Willcock, who is the personnel man--there was an air of mystery about how you got employed in a liquor store.

I have been a member since 1971 with a constituency office before the government got into it, and I must say that time after time somebody came in that I had never seen in my whole life but he had an address in my riding and he had been told that he had to get my signature or that I had to phone somebody.

I would always say, "Who told you?" "Well, I cannot tell you," and he would pursue it. I would say, "I do not know you, my friend, I do not know anything about you, except physically you are in my riding," and the guy says, "Yes, they told I had to phone Queen's Park to find out whose riding I was in." There was this complete air of mystery.

Now the way it is done is you go into the store and you get your application. You fill in your application. The manager in some of the outlying areas--because you cannot centralize it too much; you do not want a personnel office in Toronto really deciding who is going to work in Thunder Bay on a temporary basis, this is ludicrous--the manager still has some prerogatives but it goes through a central system.

3:50 p.m.

If you are saying, and I do not think you are, that a member should not have the right to draw to somebody's attention some particular facets about somebody--and invariably they do to me; I

get a few, all parties--that a fellow has been laid off at Firestone because of the closure, he is 53 years old, he is a blue-collar worker and where the devil is he going to go? Or fellows who were foremen in companies that have gradually diminished over the years so there were two foremen left to close the place. The guy goes out at 53, he has not got anything, or the fellow who has had some difficulties in the family or something else.

That, I think, is normal in any business. If you knew the head of some company down the street you would say, "If you have a chance to hire this guy, do it." There is no quarrel with that.

But the business of you going in there, no, and I will tell you why. It could not happen even if somebody wanted to because now under the labour agreements, temporary help--bear in mind temporary help is not necessarily part-time work, sometimes it is a job for six months or so in a warehouse--that temporary help now pays due to the union and if that person is not brought on to full-time help, if somebody is brought in from the outside, the union has every single right to grieve.

Mr. Mancini: How does that work again? A person comes in and makes an application, say, to a store in Windsor and then the manager makes recommendations the person be hired and it goes up the ladder centrally, and then that person is hired.

Hon. Mr. Drea: He may be hired temporarily because there is not a permanent job--as I was saying, a temporary job does not mean 24 hours a week or less, it can be a 40-hour a week job, but it is only for a period of time.

Mr. Mancini: Then after working for a while--

Hon. Mr. Drea: It used to be that only the permanent people were within the scope of the union. They paid dues and they had all of the benefits of the union, including the right to jobs being filled by seniority.

Now the scope of that agreement has been widened. The moment that you come in as a temporary employee you pay dues to the union and obviously on the basis of paying dues to the union, the union must provide the same services to you under the terms of the agreement as it does to a permanent employee.

So, as a temporary employee--and let us say you have been working in a store for two years and there is a permanent job opening, and obviously you would know about it because the stores are relatively small, it is not like General Motors or something--if they go and hire somebody in off the street, the union will immediately grieve. "Why was not Frank Drea, who has worked here two years, who has been entirely satisfactory, who is covered by the labour agreement, why was he not given this job and why was Remo Mancini brought in off the street?"

Mr. Mancini: I can give you lots of reasons for that.

Hon. Mr. Drea: Reverse it and I will give you some reasons.

Mr. Chairman: The upshot of it all is that you now have a policy which would certainly reverse what happened in this particular instance. The store manager would no longer refer somebody to the local PC riding executive and all of this information that I hear on the streets of Oshawa is all wrong and we should not send people to Charlie McIlveen any more, we should send them down to the liquor store and get their application there. Is that right?

Hon. Mr. Drea: That is right. How would they get an application from Mr. McIlveen?

Mr. Chairman: I do not inquire into these things. I just hear this stuff.

Hon. Mr. Drea: Mr. Chairman, I have no quarrel with you in your riding office, because I regard a riding office as a community institution and not a political one. That is why the taxpayers pay for it. If you in your riding office wanted to have a couple of applications around in case somebody dropped in at night so they did not have to go over to the liquor store, I would not mind that in a constituency office any more than an application for an Ontario Health Insurance Plan form or whatever service you want to provide in your community.

But I will tell you that if anybody other than a member, by virtue of the constituency office, if anybody out there has applications for the liquor control board I want to know who gave them to him. I know Mr. Willcock will want to know how they got it and I know these gentlemen here will want to know how they got it, and I will take the arbitration on firing the manager if the manager gave it out that way.

Mr. Chairman: Was there any disciplinary action taken against the manager at the Brockville store?

Mr. Bosworth: No.

Hon. Mr. Drea: No. We are in rather a difficult area there. On the one hand, were we to take some action, we have a clearance by the Ombudsman. On the other hand, we have another agency of government that really doesn't blame him. If you read through the narrative, it's really blaming the system. And, excluding the deputy, we four are the system. We have taken the responsibility for making sure it does not occur.

Mr. M. Davidson: Did somebody sit down and have a chat with him about the practice of him referring persons to--

Mr. Bosworth: We already have.

Hon. Mr. Drea: They have. And it's my understanding--that's the first thing I asked, because it's bothered me no end. You cannot run an operation where you tell somebody--he may not have a job, and that's fine to tell him, but

don't send him over to somebody else.

That practice was discontinued in 1976, the one of the applications not being available in the store.

Mr. Bosworth: That's been discontinued.

Hon. Mr. Drea: You see, they all were. If you look at the public accounts last year, one of the things we did was Mr. Willcock was given a mandate to normalize the recruitment, if you want to say that.

What I mean to say is take the mystery out of it. There are applications available. Don't write to Toronto for them, go to the liquor store. Okay, that was all done and that's the only place they are to be.

Of course, if you write in because you don't know to go to your liquor store, sure, the head office will send them to you, but they'll tell you to return them to the local liquor store so they can start up the system.

Mr. Chairman: So we can anticipate that we won't see any more instances where people are referred to the local PCs or whatever, either formally or informally, for a kind of sanction of who or who does not get a job. That policy has been changed and it's now clear as to what the procedure is, and there won't be that kind of allegation made again.

Hon. Mr. Drea: Well, it was changed prior to this decision and I can't be accountable for all human behaviour, but I have said, and this is out there, that if any manager or assistant manager, or person in control, puts out those applications, other than the constituency office--I'm not too sure whether members really want it or not, but obviously that is an exception. But if anybody does that, they're fired.

Mr. Charlton: You mentioned, Mr. Minister, that you are prepared to take disciplinary action. Except perhaps for government members we are on the outside. When somebody comes to us with a complaint--and that's what I think the chairman is referring to, people coming into our offices, meeting us on the street--you would be prepared to deal with those people if they made their complaints to you?

Hon. Mr. Drea: Mr. Charlton, I went through this last year with the public accounts.

They say, "What do we do?" and I say: "Look, I'm the minister. And I sit in my riding office. And a guy comes in and says, 'I've got to have your signature before I can get a job.' I will tell him: 'Look, buddy, I run the place. I'm telling you, you don't. I don't know you. You don't know me. You go and do it.' And the guy looks at me and says, 'I must not have done enough for Mr. Drea because he won't give me a job.'"

Okay, I know that just as an MPP--especially being the minister; the guy doesn't even believe the minister--if you get a

complaint like that, then you send it to me and you'll get back a full report on it.

I regard it as an intolerable practice, because one of the problems is that, as I say, when you ask them, "Who told you that?" And the guy says, "I don't want to say." And you say, "Okay, look, I'm the minister, you can tell me."

Surely if it's a game, you can tell the guy who is running the game. The guy says, "Well, a guy over there." And you find out it was some clerk at the counter who is not really in a position of responsibility. The guy says, "It's much better to get a job if you have your member's name." Okay, and this guy cherishes it close to his heart. Because the truth of the matter is, especially for the older or middle aged worker, a liquor store job is a God-send.

Let's not kid ourselves. The fellow who has been laid off, and he's older, he's going to have a heck of a time. This way, if he gets in young enough, he'll get his full pension et cetera, steady work and so on.

I just won't put up with it, and neither will Mr. Bosworth. But on the basis of it being a policy, you've got your options; you can send it to Mr. Bosworth or Mr. Willcock. But since the disciplinary action, if it is valid, will be ordered by the ministry, you can send it to me direct, whichever is your convenience.

4 p.m.

Mr. Chairman: Okay, I want to get one other allegation on the table and give you a chance to respond to it as well, because you are undoubtedly going to hear it.

In a number of other jurisdictions in Canada where there has been some kind of freedom of information legislation prepared, tabled and passed, there have been investigations, and the allegation is pretty simply that in a formal, and sometimes in an informal way, the liquor control board of the province keeps track of who sells what kind of liquor in the liquor store.

If somehow or other this kind of information finds its way into the hands of the governing party, the governing party then goes to the distiller and in essence puts to them a kind of an after-the-fact tax, that last year in the liquor store--of wherever it is--we sold this amount of your rye whisky and we now anticipate that you will make a contribution to our political party.

I want to put that out for you. We do not have freedom of information here, so it does not been done in Ontario, but the proposals that were tabled in the last week or so, and the statements by the ministry indicate that kind of information flow, or access to that information will come out. I want you to give the committee a response to that kind of an allegation.

Hon. Mr. Drea: I will give it. Mr. Bosworth can give it.

In the process of that investigation which originally began with documents given to the Royal Canadian Mounted Police by the Quebec Provincial Police because of things that Mr. Levesque's government uncovered after taking office, there were seizures of books at various distilleries, there were seizures in Ontario. The RCMP did a thorough investigation. There was not a smidgeon of evidence that practice had ever gone on in this province.

The only part that we played in it was the fact that certain distilleries had their head offices here and that the seizures were done of the general books. There was not one, single smidgeon of evidence against the LCBO in this province.

It simply was never done, and it will not be done. Because first of all, your election expenses act, whatever donations there are, are public. They are a matter of public record.

Secondly, there has never been, to the best of my knowledge, that kind of system in this province. Regrettably it has gone on in other provinces. There are charges. But as I say, the investigation was directed on the basis of those seizures, and they really investigated it right across the country. I guess the cases are still proceeding in some other jurisdictions, but there was not one single smidgeon of evidence-- The reason I say the RCMP, it was not the provincial police. It was the RCMP--no axe to grind. That simply does not go on.

Mr. Chairman: To the best of your knowledge, there never was, and there certainly is not now, anything like--I guess the term was something like a "gallage tax."

Hon. Mr. Drea: No, it was another term. What did they call it? Tollgating or something like that?

Mr. Chairman: Tollgating, that is it. I am not familiar with all these high-priced names.

Hon. Mr. Drea: No?

Mr. Chairman: None of that ever happened--do you know if any of the RCMP reports have ever been made public in this province?

Hon. Mr. Drea: I do not know. But certainly the charges were laid elsewhere, so I guess you would have to take it on through the Attorney General.

Since we knew they were investigating us and we never did hear what the result was, and it dragged on, and on, and on, we wondered what the outcome was. The only logical quarter was through the Attorney General and that is what came back from the RCMP. The only interest they had in Ontario was--the investigation continues--certain books and records, because the corporate headquarters was here, but not the LCBO.

Let me tell you about a couple of little precautions that we have taken which Mr. Bosworth deserves a great deal of credit for as to putting up a system whereby this type of thing cannot happen

either at the manager's level, or so forth.

In the old days when you obtained a listing, and we are talking particularly in wine, you got into about 40 stores. It always fascinated me before I was the minister. I had a conversation with a wine merchant, a wine agency, and I said to him very casually, "I guess all of your employees, your salesmen and so forth, are out doing hotels."

Oh, no, only about one in 10 was out doing hotels. The rest were doing the liquor stores.

"Why would you be in the liquor store? You've got to sell it?"

No, the local manager had the option. "Sure, we have got to sell it, but it is an awful lot different in the store if it is there, or you have got to wait a week because it is in the book."

When I became the minister, I asked Mr. Bosworth. One of the things that Mr. Bosworth did in his first term was that you now automatically get 100 stores on your listing. There is a computerized printout sent to you with all the volume of wine sales that is on the computerized printing, address by address.

You pick which 100 you want. Now that has transformed what could be a potential--the salesmen are not around the stores any more. The market is there. That 100 really accounts for about 85 per cent of the wine sales. The other 400--Ontario wine, yes, but not the foreign stuff.

Before a person in the LCBO has lunch with somebody from the industry in all dimensions, because this is a very sensitive industry Mr. Bosworth has a system that is called "trade meetings." You list down with whom you are having lunch with that week. It is all a matter of record. It is all there. It is an internal control system.

Mr. Chairman: Is that information public?

Hon. Mr. Drea: What? Who they--

Mr. Chairman: Yes.

Hon. Mr. Drea: Sure, if anybody wants it. And you notice the thing about--pardon?

Mr. Kennedy: Do you want an invitation to lunch?

Mr. Chairman: Not from you.

Hon. Mr. Drea: No, but you see the argument is: Mr. W. J. Bosworth, chairman of the LCBO, was seen at such-and-such a place with so-and-so. Okay, he runs a big business. Why should he not be having lunch with someone? But by the same token, the public says, "No wonder that stuff suddenly moved to the top of the shelf." Okay, here it is all on record. It is all there.

That is how open and how visible--because your difficulty is six months from now you do not remember whom you had lunch with or what the discussion was about. But here it is in advance. The chairman or the head office is in a position, right through the system, that everybody knows what everybody is doing. So it is a control mechanism.

Mr. Bosworth: We hope so.

Hon. Mr. Drea: We hope. And you have got human frailties, too.

Mr. Bosworth: Mr. Chairman, on this question of access to brand sales, it is a brand sales report that all our suppliers get. We charge them a small fee for preparing it. It is a document with the sale of every brand by month. It is a document that anybody can get.

Mr. Chairman: That kind of keeping of information of who sold how many gallons last year on that tollgated practice--as a matter of fact, I guess in this province, what you are saying is the defence mechanism is that any political party, any group who wanted to raise money, could get access to that information and go and make your pitch.

Mr. Bosworth: All the suppliers have it.

Hon. Mr. Drea: It is not only that, but you get into the problem it is a very sensitive industry. Somebody is selling quite often it is because it is second from the right in row A. If we could have that kind of thing we would do better. It is all available there.

The other thing I may mention, somebody said we were cluttering up--or we had the six-packs of beer by the counters. Okay. There is a reason for it. I brought domestic beer into the liquor store because I believe very firmly in import replacement.

If you were in a liquor store, you could not buy Ontario beer. You had to buy foreign beer. A great many people do not want to go and buy it by the case. Also we have to recognize the fact that Brewers' Retail is built for large-scale sales. I am talking about by the case, or by the half case, and so on.

A person who lives in an apartment building quite often only wants a six-pack, and it is a long way for them to go to a BW store. We told the breweries, and the breweries applied to us for this, by the way, and applied to the LCBO for listing.

The breweries pointed out that you are a total captive of the import field if you wanted beer. All right. We did not want to get into a position--because the other one is not controlled by us. Each one of the five breweries could have one brand in the six-pack.

The reason why they are up by the front is that women and so forth picking up the six-pack, if they are picking up a couple of other bottles, it is a little more cumbersome. We found it works

out better to have it up there if they want it.

All it really did is to put Ontario beer there. If you do not want Budweiser, if you do not want something from Czechoslovakia, you have an opportunity to buy the Canadian product. If you still prefer foreign beer, okay. There is nothing more we can do. But to leave it totally captive seemed to me to be a very--

Mr. Kennedy: How is that working out? Is there a reasonable volume of sales of the domestic beer?

4:10 p.m.

Mr. Bosworth: It sells quite well. It surprised us.

Mr. Kennedy: Did it?

Hon. Mr. Drea: We thought people bought foreign beer because it--

Mr. Kennedy: Was it lower in--

Mr. Bosworth: It is lower in price.

Mr. Kennedy: It is lower in price. It has to be.

Hon. Mr. Drea: Yes, but we thought they bought foreign beer because they liked Czechoslovakian pilsner. What is it, 80 cents a bottle?

Mr. Bosworth: Ninety.

Hon. Mr. Drea: Ninety. It is not your usual stock. But we found out an awful lot of people found it very convenient to buy the Ontario product in small amounts. We do not sell it by the half case, or something like that, and we do not take back the bottles. You have to take the bottles to the Brewers' Retail.

You are asking how did it work out. Budweiser is going to be brewed in Canada, starting next year, by John Labatt Limited which will create a new market, and probably more jobs. Budweiser only went into the liquor stores about a year ago, but found enough of a Canadian market that Labatt's will brew it for them in London with Canadian labour, et cetera, under it. They have made an application to the board to replace the Budweiser listing in the liquor store with Michelob. I suppose if Michelob develops a market, another Canadian brewery, under licence, will do that.

Bear in mind too that the biggest expansion for jobs in the Canadian brewing industry is exports to the United States. When they are doing things under licence here from the United States, it obviously opens up potential for a brewery like Doran's, which I happen to think will do quite well with light beer. In the States it is working.

Mr. Chairman: Could you lay out for us this kind of--I am intrigued, for example, in self-serve stores which is a growing

trend, how you determine who gets what place on the shelves.

Hon. Mr. Drea: You tell them. They get a--

Mr. Chairman: Is there a set form, because obviously in other marketing endeavours they would be fighting like mad over who gets to place their product in what position in something like, for example, the six-packs at the front of the store? That would seem to be a prime position to have your product marketed.

How do you allocate that? How do you lay it out? Do you have a system? Do you rotate? What?

Mr. Bosworth: We have a set form worked out by the store operations people along with the supervisor of that area. It is not always the same in every area because different products sell in different areas.

The store manager really has nothing to do with this. It is done by the store operations people to try and keep the thing uniform, and try and give all the suppliers an even break. It seems to work out. I do not think we have any complaints. I think it has worked out very well in most cases.

Mr. Chairman: That is a centralized kind of formula package. There would be local variations of the scheme but it is laid out--

Mr. Bosworth: Yes.

Hon. Mr. Drea: You want to get to the beer thing. There are some problems in there, not with beer, but you have gone to bigger containers of wine. The big jug did not used to be there.

On this grand design, wineries are allocated certain spaces in the store. We get a lot of complaints from people that either they have to go up to the third shelf to get that big container; that is the space that was allocated before they went into the big container. What we are trying to do is to avoid putting somebody at the head of the list or so on and so forth.

At the other end, there is occasionally some customer--and it is a pretty valid complaint. Why do you pick up a gallon of Canadian wine from the third shelf? You should really get it from over here where it is much more convenient. And you have breakage and so on and so forth.

Mr. Chairman: Do you have difficulty with the storage, for example, of the six-packs, because it is not refrigerated? From time to time I hear complaints of people who buy, I believe the technical term is skunky beer--

Hon. Mr. Drea: No.

Mr. Chairman: Do you have any problems with that, or is your turnover so high, or what?

Hon. Mr. Drea: Well, BW controls--

Mr. Bosworth: The turnover is quite high and they are to rotate the stock. The Brewers' Retail would rotate.

Hon. Mr. Drea: We do nothing with it. BW brings it over--

Mr. Bosworth: They deliver it in their--

Hon. Mr. Drea: BW controls it and if it is overdated or something, BW takes it back.

Mr. Chairman: I see. So stock rotation is the technique you use there to eliminate that problem.

Mr. Bosworth: It is not there very long compared to some of the foreign beers that sit around for maybe a year on the shelf. The local beer is gone quickly.

Hon. Mr. Drea: And they deliver it in small amounts because it is usually from a BW retail outlet not too far away. They know that under the rules of the game, they have to keep it supplied and in small amounts. We are not substituting for BW at all, because we do not have to.

The storage capability at the back of the store, that is being pushed constantly by the commercial accounts. They want cases of whisky back there because they are taking them to a hotel.

Mr. Kennedy: Just on that subject while we are on the matter, the display of products in the stores. The Toronto Star, a great advocate of economic nationalism, came out with a peculiar editorial advocating that imported wine be more prominently displayed than domestic wine. Do you recollect that, and if so did you respond by changing the plan of display?

Mr. Bosworth: No, we did not.

Mr. Kennedy: Do you recollect them doing that?

Mr. Bosworth: If there is any preference it goes to the Ontario wines.

Mr. Kennedy: Just while we're on that serious note, what is the relative position of domestic or the attempts to promote our domestic product, which is very good.

Mr. Bosworth: You've probably seen the display cases in our stores, where--

Mr. Kennedy: I don't get in that often, no.

Hon. Mr. Drea: A billion dollar a year business, but nobody comes in the front door.

Mr. Bosworth: The only thing that's displayed in those cases are Ontario wines.

Mr. Kennedy: Oh yes, I was thinking more in terms of placement in the self-serve stores.

Mr. Bosworth: At one time we had all the Ontario wines in one area and that didn't work out very well, because they would rather have them interspersed with the imports. It got people moving around the store.

Hon. Mr. Drea: If a guy comes in looking for a red dessert wine, he doesn't want to sift through a whole Canadian section. He wants to go to red desserts.

Mr. Bosworth: We have found that it's worked out better mixing them together.

Mr. Kennedy: When I interrupted, you were speaking of the display case of the various products; what is the arrangement?

Mr. Bosworth: The wineries choose what they want to display in them. I believe it's two bottles from each winery. And it's supposed to be their premium table wines.

Mr. Kennedy: And there's no particular preference--

Mr. Bosworth: No. It is just to let the public see what we have in Ontario wines, in premium table wines from Ontario.

Hon. Mr. Drea: It's probably more prominent in a non-self-serve store because it's the only thing that's displayed. If there's a marketing edge in having your bottle displayed, it makes it a lot easier to remember 1154 than reading a chart.

Mr. Kennedy: As the minister mentioned interspersing domestic and imported and someone looking for a dessert red wine, do you find that there are any surveys or evidence to whether the potential customer is more interested in getting that wine? Are they price conscious, or are they place of origin conscious?

Mr. Bosworth: I think they are quite price conscious.

Mr. Kennedy: Do you? In other words, if our domestic product was quite palatable and acceptable, they would take that ahead of an import at the same price. That's somewhere we can build on that to promote it.

Hon. Mr. Drea: To give you a simple answer on price elasticity. A lot of people may try a brand because there is a lower price, or the variety they've been drinking has gone up. But that price elasticity won't stay if the product isn't good. If a person starts buying \$5 wine of another variety because his own went to \$8.50 and it's gasoline, he doesn't come back for a second.

The price thing may have been a little bit of an edge for a time, but now that the foreign prices are coming down, the quality in the long run is going to prevail. If you've got a quality product, it's the same as anything else.

The only problem we had, and I say this because the distillers raised it, is if we were Eaton's, and we were selling a product that we didn't have to have a social awareness about, we

would arrange the stores much better to maximize the profit that was coming in. Now, the name of the game in the store is a convenience to customers, and we're not doing that. You can't have social responsibility and do that.

Mr. Kennedy: I find there is quite a response to the referral system in wine. Somebody passes word around here today that a certain wine is really good, you should try that, they tend to do so. Is that supported by any sophisticated research?

Mr. Bosworth: No, I think that happens.

Hon. Mr. Drea: I will tell you, Mr. Kennedy, as far as research is concerned I'm with Mr. Ruston all the way. I think the remarks he made this morning are as valid as anything.

Mr. Mancini: I would like to ask Mr. Bosworth about the policy concerning the buildings that you use. Do you own most of your buildings, or do you lease them, or how do you go about getting new buildings when you need them?

4:20 p.m.

Mr. Bosworth: At the moment we are building stores where we can. We buy the property and build the store if we can, and we own it. This isn't always possible because we must go in to some shopping complexes. We are also very conscious of redevelopment in downtown areas, trying to redevelop them. We assist if we can. But we actually prefer to own our own stores.

Mr. Mancini: How many stores do you lease?

Mr. Bosworth: It's about 50-50.

Mr. Mancini: About 50 per cent? What's your average square footage cost?

Hon. Mr. Drea: I'll tell you one of the problems in it is the shopping plaza 10 years ago would give you a very agreeable price, because they considered the liquor store to be a real customer counter. Today, they want a much higher price because they regard it as a bit of a problem, in that it clutters up parking. There are other stores that are eminently more desirable in terms of customer attraction.

Mr. Bosworth: Mr. Mancini, we go from say \$5 a square foot to \$25.

Mr. Mancini: It depends what ranges are.

Mr. M. Davidson: It depends on location.

Mr. Bosworth: Oh yes. That has everything to do with it. For instance, the Eaton Centre is so expensive in rent, but we don't pay very much in Moosonee.

Mr. MacInnis: Can I mention we're coming off of a number of say, 10- to 15-year leases, paying say, \$265 to \$350, which, 15

years ago was the going rate. Well, naturally, for lease renewals we'll be looking at a substantial increase.

Mr. Mancini: Mr. Sterling earlier in the day told me that if I ever aspired to work outside of elected office, that I should aspire to the job of the overseas consultant. So I was wondering what the overseas consultant does?

Mr. Bosworth: Our overseas consultant selects good buys for us overseas. He has a knowledge, he's probably one of the three best wine consultants in Europe. He's been in it all his life and he's invaluable to us. I hope nothing ever happens to him because he's one of the reasons why we have such a fine list. And they tell us we have the best list in North America, as far as wines are concerned.

Mr. Mancini: Is he actually stationed in Europe?

Mr. Bosworth: Yes. He's in London.

Mr. Mancini: He lives right in London, England. And he flies from London to Rome, to Paris.

Mr. Bosworth: He doesn't buy. He recommends to us where the good buys are, and then we finally make the decision here.

Hon. Mr. Drea: But you have another thing, Mr. Mancini. As you know in Europe there are what they call appellation controlee where a trade mark is registered. It's like a tobacco farm here. It's only on that particular 40 acres that the grapes are allowed to be used for that brand. The rest of the farm is 60 acres, same grapes, same everything, but you can't use that brand name.

One of his things is he goes around and finds out where there is a place like that. It's exactly the same wine, only it comes out under another brand that you have never heard of and it's a very good offset against the increase in the other ones. Because the French rig the system, the Germans rig the system.

The best buys right now in Europe are the nonregistered or noncontrolled brand names in Italy. That's why you get excellent Italian wine in this province almost suddenly, because he went in there and looked at all of them, tasted them, to see that it was a quality product, and told us: "It is available. Do you want to move into that range?"

Mr. Mancini: What would it cost the board to have Mr. Adams on staff?

Mr. Bosworth: Between \$1,400 and \$1,500 a month. It's a pittance, and he works practically full-time for us. But he's quite a well-to-do man, and it's partly hobby and partly job. He also trains our wine consultants.

Hon. Mr. Drea: Remember we have a thing here called the rare wine store. Now that, to a lot of the public, means it's a \$100 and up stuff. That is not true. Some of it is expensive, yes,

but it is brands that you have never heard of, particular varieties and so forth. We would not be able to run a store of that quality without what this gentleman does.

One of the other problems is a lot of wineries will not sell to us because, if they are going to sell, we insist--let us say it is a French red--you have got to give us enough for the whole system, we will not take it just for the Toronto store.

They do not produce enough of that variety to supply us. He moves in on some of those and moves that kind of thing into the specialized wine market, which is the rare wines. You run into that, like a cottage winery in France. They have just too many commitments. They will not increase their production. They will give you so much. We cannot very well put it in the Toronto stores and not the Windsor stores so you put it in those very specialized things. He looks for stuff like that.

Mr. M. Davidson: During the course of the remarks there was some reference to the boards and their responsibilities as far as Brewers' Warehousing goes. To what level do you have any supervision over Brewers' Warehousing?

Hon. Mr. Drea: I guess it is basically hours.

Mr. Boswell: They apply to us for listings of products. Our people actually audit the warehouse.

Hon. Mr. Drea: Are you talking about their own operation or where they sell with us?

Mr. M. Davidson: No, their own operation. You have nothing to say with regard to location of stores or anything, that is entirely up to the Brewers' Warehousing people?

Hon. Mr. Drea: No, that is entirely up to them. I think it is fair to say in certain localities if they are buying a piece of land for a store we try to get a liquor store in because there is a certain efficiency scale because of the storage facilities and one truck route through the town and that type of thing. But if they wanted to go and build one, provided the zoning was right, on College Street--

Mr. M. Davidson: You would have no say in it.

Hon. Mr. Drea: Let us not say that. In a normal business consideration we would have no say, but let us say that that a brewers' retail store was going to be put right next to a school and there was a complaint from the community, it would not go to Mr. Bosworth, it would come to me, and we would say, "There is concern in the community about it being so close to a high school," or something. But in a normal consideration, no, they do their own.

Mr. M. Davidson: So they pretty much operate on their own.

Hon. Mr. Drea: Yes. They have to have the same hours of

sale. In other words, they cannot sell before 10 o'clock in the morning and they cannot sell on Sunday.

The only article of contention, I guess, is November 11. We tell them they have got to be closed on November 11. That is not negotiable, because November 11, I think--and the cabinet happens to think--is an institutional day in this country. We try to keep a rule that when the liquor store is closed, they are closed. We get some fluctuations on the August holiday or something.

Mr. M. Davidson: The new regulations relating to the special occasion permit; there is a great deal of confusion, Mr. Minister, regarding this and perhaps you can clear it up for us.

Hon. Mr. Drea: I would be delighted. If all the members would please pay attention, because there is no mail service and I cannot afford 17 cents any more anyway.

One confusion exists out there among the people who have been getting them. Up until 1975 and the new act, remember you could not have a fund-raising permit by law. All SOPs had to be nonprofit. The truth of the matter is that the government had been turning a blind eye for many, many years. In 1975 we legitimized it. We had two types of permit, one was nonprofit and that means nonprofit--not the group, the event. The other one was fund raising.

4:30 p.m.

It has taken us almost five years to convince people. A lot of people became confused in this because they thought as a nonprofit group, rather than a nonprofit event.

Nonprofit events, especially since weddings are exempt, should be very few and far between. It really only should be when a company is opening when to keep a little bit of control they charge at the bar, because if it is a service club dinner they are perfectly entitled to the same fee as for fund raising.

The reason those regs were put in on the control was--every other province has them--because we have had sharpies operating Friday and Saturday socials saying they were nonprofit. We knew at the prices they were charging that somebody was getting money and it was not a group or anything else and that had to be brought under control. Our prices are a bit higher than other provinces.

A lot of people became confused. I got dozens of letters saying: "I am the local Kiwanis Club. We have been raising funds for years through our special occasion permits. How can you do this to us?" You go back and check and they never asked for a fund-raising one, they were still on the other. So it was a matter of telling them it is the event.

I will tell you virtually any social organization--fraternal, service club, local, political, whatsoever--that is in the general area that its funds one way or another go to community betterment, which is the same thing as is in the lotteries act, is eligible for a fund-raising permit.

What we have done to alleviate the situation, until everybody gets acquainted, because the honest folks are not asking for one every week. They come in and they read something. We have decentralized the permits, that means you go to your local store.

No permit can be refused. If there is an area of doubt in the issuer's mind as to what this is in, that permit application must be immediately referred to Toronto because we have found when they came across the desk in Toronto, 99.5 per cent of them were instantly done anyway. So in the short term an application cannot be refused.

What was happening, unfortunately, is that you would say, "You do not appear to qualify." The person would go away. Now we say, "It is in an area and we want to refer it to head office," and in that way, unless it is a total and absolute no-no, and it would be that Monty Davidson wants a permit for Monty Davidson's pocket type of thing. That is where you get into the thing. So I think you will find that those concerns have been alleviated.

People look at community betterment and they say, "But we have been running an ethnic hall." We say, "That is community betterment because it is something that is in the community."

If it is a baseball team or something and they give money away, or they do something, I do not know of a single reputable social, and I use the word social, they say to us: "What about the Masonic Hall? We have the wives down for a cocktail party once a year." You say, "Did you make money on it?" "Sure we did." "Where did the money go?" "Into the Masonic coffers." That is community betterment because the Masonic Hall in a great many communities is the only thing there.

I agree with you, there was a lot of confusion over this nonprofit business, and also the simple fact of the matter is that it has taken us time to convince people that it is now legal to have a fund-raising permit. They still think that you cannot have a special occasion permit to raise funds, and of course you can.

Mr. M. Davidson: On the setting of the prices, you have got 65 cents for beer, 80 cents for one ounce of liquor. That 80 cents is for the liquor itself. What about mix?

Hon. Mr. Drea: Liquor and mix.

Mr. M. Davidson: Liquor and mix, that covers it.

Hon. Mr. Drea: Oh, yes. No two bucks for the mix, 80 cents for the drink and no two bucks for the mix.

Mr. M. Davidson: So 80 cents covers the drink including mix.

Hon. Mr. Drea: We have worked it out rather scientifically--it is not the LCBO, it is the Liquor Licence Board of Ontario--on the basis of what other provinces were charging and what we knew hall rentals were. Truly to be nonprofit--you never really get a nonprofit; there is a couple of bucks over or

something--and to keep it that the customer really is not contributing to an individual's pocket, and it includes the rent.

If it turns out in a very unusual situation, yes, we will adjust the price, but it was to end this business, because we had no right to audit. Somebody said if they get a special occasion permit for fund raising we had a right to ask where did the money go and we have had instances. We had one social organization in the province that spread the word around that we were totally against them, that we would not give them special occasion permits. That was not true. In one of their operations, where the funds went left a lot to be desired so we went in and looked. They straightened that out and it was only that local operation.

We never audit. The Kiwanis Club, we know where the money goes. It is when you get an unusual one. You have also got some changing customs in marriages. It used to be at a wedding that nobody ever charged for the liquor. If there was liquor at a wedding the father paid.

Today, you have got a lot of single parents and you have got a lot of fathers who simply cannot afford it. The price of liquor now at a wedding is very, very high, even for wine. So we exempted weddings because that is a social custom. If you want to charge more and make a profit at the bar and hand it to the bride and groom, great, go ahead.

We could not care less, but not on the grounds that this was somebody running every Friday and Saturday night with a special occasion permit and saying it was nonprofit so we had no right to even ask where did the money go?

Mr. Charlton: Does a stag for the groom fall into the same category? He hesitates.

Hon. Mr. Drea: That is a very, very difficult area. My personal view is that anybody who is getting married today faces a number of problems and I am sure we can accommodate the applications to make sure that it is the groom, that it is not a fund raising for the best man.

It is a difficult area in terms of a straight-out policy, because theoretically community betterment is not the groom's pocket, but by the same token I am sure all of us regard marriage and setting up households as very desirable in a community and if you stay out of debt I think you might stay married longer.

You asked me about an hour ago, what about liquor policy? Now you see how difficult it is. You have to look at the circumstances. Besides most of them put down other things.

Mr. M. Davidson: I think what you are saying is that you and the board are both prepared to observe a little leniency on occasion.

Hon. Mr. Drea: Yes. One of the problems is that we had the old system which was prior to 1975 under which you had to mail

in your application to Toronto and it was all looked at in head office.

There never was any problem. You were either rejected or accepted. Remember the LCBO is our agent out there. You go to the local liquor store. The manager in the store has got guidelines and he sees one every so often that--he is a long way from Toronto and he is working for another agency. We do not have enough people in the LLBO to staff all over.

So he looks at the guidelines and there is something that appears to be in doubt. What we call the good managers immediately say, "Okay, let me just check on this for a day or so." Some of them say, "No, you do not." They take a strict rule on the book and what happens is the person goes away and invariably if they sent it on to Toronto somebody would look at it and say, "Yes."

It is really discretion. You cannot put across the top of the guidelines, "Here are the guidelines but if anything comes up do it the way you want."

That is the system we now have. No permit is refused at source. It has to be refused at the head office. As I say, with 99.5 per cent of them there is not even any discretion. I can give you precedents for five years of how they have issued them.

I guess a comparable situation is the lotteries branch but remember that is all done by mail. If you send in an application for a Monte Carlo licence and you say where the money is going, remember we audit you out of the lottery, but that is all done by mail. The decentralization was to make it more convenient and that has produced some problems.

This system, I am sure, will work it out. Besides it saves the poor old minister on Friday afternoon. My Friday afternoons are busy under the present system.

Mr. Kennedy: Could you recognize a situation where the Rotary Club is going to have a barbecue, and say there will be 200 people who will be guests. We will sell our liquor at \$1.50 or \$1.25 a shot.

Hon. Mr. Drea: We do not care what they sell it at.

4:40 p.m.

Mr. Kennedy: What happens? What does Rotary pay?

Hon. Mr. Drea: Rotary applies for a special occasion permit. They check off the fund raising. It depends upon the number of people, the amount that--

Mr. Kennedy: Service clubs are in there for fund-raising purposes.

Hon. Mr. Drea: All we do is check it off as a fund-raising permit. The fee depends upon the number of bottles you are going to have.

Mr. Kennedy: How does that work out?

Hon. Mr. Drea: It is a sliding scale. If you are a small group, only going to have five bottles, you pay a minimum fee. For a big group it is higher. But the moment they come in as the Rotary Club, it is for fund raising.

The problem has been that before there was no difference; they could come in under "nonprofit." They kept choosing that box because Rotary is nonprofit. Now, to get some of the sharpies out of the nonprofit field, all they have to do is check off fund raising and you can charge \$10 a drink because you are expected to make a profit. The fees to the liquor licence board are identical for fund raising and for nonprofit. You do not save anything by going one route or the other.

Mr. Kennedy: How much do you pay for your permit?

Hon. Mr. Drea: It depends upon the number of bottles you are buying and how many people are there.

Mr. Kennedy: There will be 200 people and they will have four drinks each. That is 800 drinks.

Hon. Mr. Drea: I do not know. I would be very glad to call up the LLBO and ask them. I am sorry, I do not keep a sliding scale on me.

Mr. Kennedy: But this is what the manager bases his levy on.

Hon. Mr. Drea: No, the levy is by regulation. He has no choice. The reason we ask you how many people are going to be there is to try to assist you. Remember, you have to order this from the liquor store at a different rate. You cannot bring your own liquor.

We used to find out that people figured 200 people, that is \$80. They would be trying to get back on Monday morning to return 20 bottles. We try to keep them in the position where they will sell roughly about what they ordered, just for their own sake.

But the fee is on the basis of the amount of alcohol, whether it is beer, wine, or liquor, that you are bringing in. That is the licence fee.

Mr. Kennedy: You take out 80 bottles and they say, "Okay, give us so many dollars for this permit." Then you would get a rebate if you brought some back.

Hon. Mr. Drea: You get a rebate per bottle.

Mr. Kennedy: The amount of the sales and all this sort of thing--the big hangup is profit versus nonprofit.

Hon. Mr. Drea: No, fund raising--fund raising is an intrinsic part of any service club's operation. We have no objection to that whatsoever.

The problem was that people were setting up an ersatz organization and saying, "We know we are not a charity, but we do not make any profit on this, even if we sell you a drink at \$3." You know what they buy it for. Somebody made money and we had no way of getting at that money. The problem was, that was taking money out of the charitable field.

Mr. Kennedy: Fine, that explains it.

Hon. Mr. Drea: But there is no difference.

Mr. Kennedy: Another problem is a nonprofit thing where a private party buys 10 bottles of liquor, for so many people, for a function to be held in a church.

Hon. Mr. Drea: Are you selling it?

Mr. Kennedy: No.

Hon. Mr. Drea: If you have no sale permit, there is no problem.

Mr. Kennedy: Say I am going to be the benevolent type, which I couldn't be, but let's say I am, and I buy the 10 bottles. I will give it and we will have a party and treat everybody.

Hon. Mr. Drea: If there is no sale permit, there is no problem.

Mr. Kennedy: But it is to be held in a church. The query comes back if the church has any more of these things, are they going to have to be listed as a party-giving institution or something?

Hon. Mr. Drea: And no sale permit?

Mr. Kennedy: Yes.

Hon. Mr. Drea: Let me see that one.

Mr. Kennedy: What happens with these premises that are giving these that would raise that question?

Hon. Mr. Drea: First of all, Doug, the only thing would be an awareness of a crowd and fire. If a place is going virtually every week--remember the Hotel Fire Safety Act--and it has no licence, it is not inspected for fire. We like to check, for rather obvious reasons, if there are enough exits and what they are really doing, that's all.

But if the church wants to hold a weekly dance or other functions, they can get a no-sale permit and give it away. They can rent out their church to the Kiwanis or the local Knights of Columbus to have a dance, there is no problem at all.

Mr. Kennedy: But the board gets interested, if they are having something each week or more frequently, in the safety and the facilities.

Hon. Mr. Drea: That is all. There is the impression that the liquor licence board inspects every hall, but it is not so. The Hotel Fire Safety Act operates under the Solicitor General. They have to be licensed premises. It does not apply to clubhouses and so on. In some cases it is up to the local fire department.

If the church is having problems, they can come and see me. I do not know why they would get that impression. There are more myths out there with regard to alcohol.

Mr. Kennedy: I think you have answered it. But they have had several requests, an ongoing sort of thing, "If you have any more you have got to get some kind of a rating from the--"

Hon. Mr. Drea: No, you don't need a rating. We just want to make sure you have got exits. The tragedy in Quebec in the mining town occurred because the premises were not licensed. After the fact everybody says, "Why didn't you inspect it?"

Mr. Kennedy: So the LLBO does go out and take a look at these halls.

Hon. Mr. Drea: There must be something more to it than what they have told you. The police sometimes object very strenuously. Sometimes there are noise complaints.

Mr. M. Davidson: I think, Mr. Minister, I understood you to say, and you can correct me if I am wrong, that organizations that apply for fund-raising permits would include political groups like riding associations.

Hon. Mr. Drea: Sure. Of course.

Mr. M. Davidson: With the fund-raising permit you can charge whatever you like for the drink?

Hon. Mr. Drea: There is no control.

Mr. M. Davidson: There is no control over it.

Hon. Mr. Drea: No. Nonprofit was meant for the consumer. If it is truly a nonprofit event, then the guy who is running it should not make a profit. If it is fund raising--

Mr. M. Davidson: Of any kind?

Hon. Mr. Drea: Yes. In fund raising we are not out to put you into a loss position. For a riding office of a political party, it stands for community betterment. You would not have one in the name of a political party, it would be the riding association's.

Mr. M. Davidson: Yes. Right.

Hon. Mr. Drea: There is no problem there at all.

Mr. Chairman: Other questions?

Mr. Ruston: I want to ask Mr. Bosworth if there has been much pilfering in your new self-serve establishments which you have had going for some time. Have you noticed any particular increase in that?

Mr. Bosworth: Yes, we have, considerably.

Mr. Ruston: Is it very much of a problem?

Mr. Bosworthy: So much so much that we have formed a security department. We have four people on staff now. That is the result of going self-serve.

Mr. Ruston: I want to ask about the wine stores. Many of the companies have their own stores. Would it be possible for two or three wine companies to open a combined store and sell their two or three products in the one store?

Mr. Bosworth: Not under the present regulations. Stores are operated by one winery.

Mr. Ruston: There is really no other way other than. Is each individual company limited to how many wine stores it can now open?

Mr. Bosworth: No.

Hon. Mr. Drea: If I could just come to that. There were some reference to this freeze this morning.

One of the reasons that I imposed the freeze on the winettes, the ones in the supermarkets and the stores, while the question of the grocery thing was being pondered in the independent stores, is because that system is only beneficial to the Big Four because the winery has to operate the concession in the store with its own employees. It has to have a full range of product in order to attract marketing. The cottage wineries and so forth cannot get in.

When the decision is made one way or the other on the grocery thing, I am prepared to take a look at a co-op or some kind of joining together so three or four of the cottage wineries who do not produce a full variety can have a pool arrangement in a kiosk or in the stores if they want. Most of them now do not want it. They want a store at their winery for rather obvious reasons. They prefer the LCBO system.

Bear in mind, if they went into the grocery stores their product would be going in that rack in the independent store, and they might not want that. But if we were at a position where, apart from the LCBO, there was only going to be the wine store, we would have to change it to let the little guys get together if they want to so they can sell too.

It would be either a free-standing store, like Chateau Gai's in downtown Toronto, or a winette, because otherwise the middle three and the last four, and a couple of others coming on stream would just not fit into that system. It is too expensive and they

do not have the range of product. Co-operatively, I think they would do very well.

4:50 p.m.

Mr. Chairman: Thank you very much for appearing before the committee this afternoon. We may be talking to you between now and the time the report is ready. If we need further information--

Hon. Mr. Drea: Could I go over what you need in additional information? We have been here quite a while. We filed the report with you, and then you wanted some--

Mr. Chairman: I want some indication of volume of sales compared to other jurisdictions.

Hon. Mr. Drea: That was the volume of revenue.

Mr. Chairman: I think maybe the simplest thing is to have John get hold of your staff tomorrow.

Hon. Mr. Drea: Could I look at it? The last time we were in front of a committee we thought we had clearly explained what we would be providing and they did not understand. It wound up they were quite hostile towards us, even though we could not supply them with the information; it had to come from the Minister of Agriculture and Food. It just led to a foulup about six months down the road. So if you could--

Mr. Chairman: This committee is never hostile, Mr. Minister. We are a very friendly bunch.

Hon. Mr. Drea: If there is any other information you want that has not been discussed today, just put it into an envelope. We would be very glad to provide whatever would be helpful.

Mr. Chairman: Thank you.

Hon. Mr. Drea: Could I just say one thing for the record? I told the press that I am not inclined to go to jail, having run the system for a while.

There is no floor price in this province. When the wine council today said that the government had agreed to a floor price on new products--I think \$5 was mentioned--the LCBO at no time has had a floor price for new listings. Even before GATT, that was totally against all tariff rules. We would have been in deep and serious trouble. After GATT, we would be in even more trouble. There is also a feeling that we might very well come under some restraint of trade, et cetera, and you just cannot do that.

The impression was being left today that we had a price, that if you wanted to list with us you had to agree that you would give us a base price with the markup we would come out with. No, there is no such animal.

The reason why the prices of imports coming in now are going

up when they first arrive here is the cost of transportation, particularly by ship--the cost of bunker fuel oil is just astronomical--storage, their own costs, et cetera. But there is no floor price. I really want to have that on the record in case someone from the European Economic Community reads these things like a hawk and we get a rocket from External Affairs and so on. I repeat, there is no floor price.

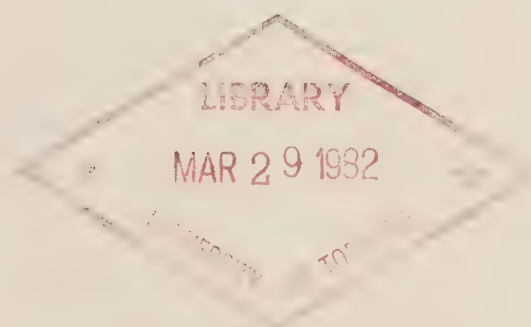
If it is a good marketable product that is going to sell for three bucks and we think there is a market for it, it will sell for that three bucks; although the truth of the matter is there is nothing around at three bucks, final price, any more that is not pure gasoline. If somebody can do it, God bless 'em.

Mr. Chairman: The committee stands adjourned.

The committee adjourned at 4:52 p.m.

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STANDING COMMITTEE ON PROCEDURAL AFFAIRS
LEGISLATIVE LIBRARY RESEARCH SERVICES
THURSDAY, OCTOBER 16, 1980



STANDING COMMITTEE ON PROCEDURAL AFFAIRS

CHAIRMAN: Breaugh, M. (Oshawa NDP)
VICE-CHAIRMAN: Davidson, M. (Cambridge NDP)
Charlton, B. (Hamilton Mountain NDP)
Mancini, R. (Essex South L)
Rotenberg, D. (Wilson Heights PC)
Rowe, R.D. (Northumberland PC)
Ruston, R.F. (Essex North L)
Sterling, N.W. (Carleton-Grenville PC)

Research Officer: Eichmanis, J.
Clerk: White, G.

From the Legislative Library:
Grayson, Dr. L., Senior Research Officer
Land, R.B., Director
Wu, Dr. W.S., Chief, Legislative Research Service

LEGISLATURE OF ONTARIO

STANDING COMMITTEE ON PROCEDURAL AFFAIRS

THURSDAY, OCTOBER 16, 1980

The committee met at 10:12 a.m. in room 151.

LEGISLATIVE LIBRARY RESEARCH SERVICES

Mr. Chairman: This morning we have Mr. Brian Land, the director of the Legislative Library, and Dr. Wu, the chief of the research services. We wanted to spend a little time this morning on the use of the research services in the library. This has some connection with concerns which we expressed in our report on committees and on the availability of research services to individual members. That concern was raised in the committee by Mr. Mancini.

We thought that the first order of business would be to invite you to come down so we could get an update on how the services are being provided and who is using them, Mr. Land.

Mr. Land: Thank you, Mr. Chairman, and good morning. Also with me in addition to Dr. Wu is Dr. Linda Grayson, senior research officer, who has been providing research assistance to the select committee on constitutional reform.

We have prepared a very brief submission in order to update the committee on the workings of the research service since we were last here in May 1979, when we were just getting under way. I think it is appropriate to give you some indication of what has happened since that time.

Our submission is in four parts. We have a brief outline of the mandates of some of our colleagues at the federal level, from Australia and the the United States, and our own Ontario mandate. Next we deal with the general advantages of research units serving committees and then we provide some feedback for you on how our services have been perceived by committees of the Ontario Legislature. Finally, we have provided some statistics.

As you are aware, the mandate of the research service came about as a result of the recommendations of the Morrow committee, which were subsequently endorsed by the House. The mandate is to provide research services to the members of the Legislative Assembly, both individually and collectively; that is, to committees and to parliamentary delegations.

One of the common features of parliamentary research units is to serve members of the Legislature in their individual and collective capacities. Serving members in a collective capacity includes service to committees of the Legislature and both chambers--such as in Ottawa or in Washington--to standing committees, select committees, delegations and other jurisdictions; to the Legislature in hosting parliamentary events; and to parliamentary associations and similar organizations in

conducting annual meetings, seminars, and special gatherings.

For example, the Commonwealth Parliamentary Association met here last fall and we played a part in providing some of the background materials for that meeting.

At the federal level the research branch of the library of Parliament provides a full range of services to both the House of Commons and Senate. We have included, simply for information, the ratio of members to research staff, which is seven to one; that is, seven members per one researcher.

In Australia there is also full service to both chambers. We have appended a brief description of the service to committees offered by the Australian Department of the Library. In Australia the ratio of members to research staff is approximately five to one.

Perhaps the best known and certainly the largest research facility is the congressional research service of the United States Library of Congress in Washington, which I am sure you are familiar with. It offers a full range of services and it has to be considered unique on the basis of its size and statistics.

It has over 800 members, appropriations annually of over \$23 million and over 300,000 inquiries in 1978-79. It might be likened to almost a small university with a staff of that size. Its member to research staff ratio ranges from two members to one researcher, or one to one, depending on the definition of research staff. If one were to include professional library staff in the congressional research service and so on, it really is almost one staffer to each senator or congressman.

We have set down some of the advantages of a research unit serving committees and the economic consideration. Inhouse resources are available to the Legislature year round at known cost levels, whereas outside experts have to be contracted for and their fees, of course, are based on a per diem or per hour rate.

In its report, tabled June 12, 1980, this committee noted that "The fees paid by one committee for its part-time counsel last year was substantially higher than the total salaries of the four library research officers."

On occasion committees will require the assistance of persons with highly specialized qualifications which are not available among inhouse research staff. We recognize that such outside experts' services are not likely to be wholly displaced or supplanted by inhouse research capability. In other words, there very definitely is going to continue to be a place where committees will find it appropriate to hire an outside specialist.

Secondly, the advantage of continuity and familiarity with the legislative procedures: Inhouse research staff represent a valuable human resource which can be drawn upon without extensive orientation. Such staff are already familiar with the working environment and procedures of the House and its committees. Also,

increasingly, members have had some contact and experience with one or more of the research officers.

Thirdly, versatility: Virtually all parliamentary library research units are staffed by a mix of subject specialists. For example, we have a mixture of generalists and specialists in subject areas such as science, law, political and social affairs, the environment and economics, which provides a general pool of resources which can be drawn upon by the Legislature at any time.

Since virtually all legislative research units are divisions of legislative libraries, the specialized functions of information retrieval and analysis are performed and co-ordinated by one service agency. As we begin to move into the use of computer terminals and extracting information from a commercial data base, the level of sophistication of information retrieval intensifies. Our information and reference staff in the library work very closely with the research officers.

10:20 a.m.

Fourth, the research units are responsible to the Legislature which created them. They are aware of the end use of the material and are able to provide concise, precise and cogent material in response to the needs of legislators.

Now we have recently completed our first year of service which we have dated from October 1, 1979, since that was when we had on staff five officers. We now are at full complement of seven and our member to staff ratio is about 18 to one at the present time.

The seven research officers was the total number advocated in the report of Erik Spicer, the parliamentary librarian, as sort of a startup establishment and we have adhered to that until we are able to establish whether it is an appropriate number. So we have just very recently, as of July, had a full staff of research officers.

Service to committees: In keeping with its mandate, the legislative research service has provided research to date for three committees, the standing committee on public accounts, the standing committee on administration of justice and the select committee on constitutional reform. We have furnished some feedback of the reaction of the committees.

In its final report of December 1979 the standing committee on public accounts indicated that Martha Fletcher of the legislative research service "has been a great benefit to the functioning of the committee." In addition, the chairman of the committee, Mr. Pat Reid, went on record in the Legislative Assembly to thank the members of the committee and "particularly our researcher, Ms. Martha Fletcher, from the library, who has been of great assistance to the committee."

Similarly, the standing committee on administration of justice on September 2 congratulated Jerry Richmond for the work he has done and the issues he has raised. On that occasion, he had

prepared a background paper on the Ontario Housing Corporation as the basis for the discussion in that committee.

Then finally, the report of the select committee on constitutional reform also expressed its thanks to Dr. Linda Grayson of the legislative research service for her efforts. The committee noted that this is the first occasion that the legislative library has provided this service for a select committee and considers it a valuable precedent that should be followed. This is in the report that has not yet been tabled in the House.

On page seven we have provided some statistics for our service from April to September 1980, the start of the fiscal year, for six months. And as you can see, individual members have made 42 requests; senior assembly officers on behalf of members, 11--these are typically where a member of the Legislature is delegated by the Speaker or on behalf of the Legislature to represent the Legislature at gatherings out of the province or overseas.

Then associations; the Commonwealth Parliamentary Association. Committees: You can see the figures are high for the committees. And others: This would be the occasional inquiry we might get from Ottawa, from our colleagues and so on. We try to respond to that.

In mentioning the committees, the total number of 307 projects, it might be as well to point out that the membership of the justice committee is 16; constitutional reform, 15; and public accounts has 12 members.

We have also included, simply for information, a breakdown by subject. If one were to include the public accounts committee under the heading of economics, it has 64; environment, one; history, six; interdisciplinary--that would be more than one subject involved--four; legal, 11; and political affairs, including the activities of the very busy constitutional committee, 199; science and technology, eight; social affairs, including the justice committee, 72, for a total of 365.

We would be pleased to respond to questions from you and members of the committee.

Mr. Chairman: There are a couple of matters which we would like to pursue with you. The first is brought to our attention although this might in some quarters, I guess, be viewed not really the purview of a procedural committee. What we are concerned about is that we have recommended to the House that changes be made in the committee structure and the way that members function. And part and parcel of that, of course, is the kind of support services that are available.

We are aware that over the course of the last year, the Board of Internal Economy, the Speaker and a number of other people have joined with this committee, seeing if we can get our committees here to make use of the existing research staff we now have to turn around, if it was possible, the practice of hiring

consultants from outside when we have people here in our own library services branch who could do the task.

We recommended, as well, a slight variation of the current procedure in our committee report of going to some rearranging of the staff levels here, and the structure of it, as well. So we have put those concerns before the House.

But I guess, in practical terms, what members here are now saying is that a year ago, when nobody was perhaps as aware as they might be of research services available upstairs, somebody like me on the opposition side with no access to ministry staffers to prepare material could walk into the library, find somebody who was fresh on the job and anxious to perform, and you got really quick turnaround service from research. We have noted of late that you walk in there now and it is tough to find somebody who is not over their eyeballs into research for committees.

We seem to have succeeded, on the one hand, at convincing all the committees that they ought to make use of the research services, which is, of course, quite good. On the other hand, the basic purpose of establishing research facilities up there was for members who did not have any alternative sources of research, that is people like all the members on this committee who are not party leaders and do not really have tie-in to caucus research staff which is allocated by the assembly.

We have needs as well. We seem to have succeeded in putting ourselves out of business on this. We are searching for a way to do a bit of a turnaround on that.

Maybe you could just respond to that. Is it your opinion now that you have succeeded in providing research facilities for committees per se, and that part, according to the statistics which you have given here, seems to be working out rather nicely? But how about poor schmucks like me who cannot get the services that they need?

Mr. Land: In general, I think our mandate was to do both. I will ask Dr. Wu, in a minute, to add his own comments about whether or not projects or requests from individual members have had to be deferred. I hope we have not had to turn anybody away. I am certainly not aware that we have.

I guess I have to say that I am very pleased by the visibility that the committee activity has given our research officers because, as you would know, Mr. Chairman, our research unit is housed on the fourth floor of the north wing, and we are not exactly on the main crossroads of the legislative assembly building.

For that reason, it makes it a little bit out of the way. Particularly new staff members, new research officers, have found it awkward to get themselves known and so on. They cannot very well go around knocking on members' doors soliciting business. So the committee activities have allowed them to become involved in working with a number of members who have then, on an individual basis, come back and asked for individual service.

10:30 a.m.

I would suggest, and I would ask my colleagues to comment as well, that perhaps the committee activity has contributed to individual members being made aware of the research service and following up.

As to the second part, on whether the service to individual members has, in fact, suffered, I will turn that one over, and with your permission, perhaps Dr. Wu might respond to that one.

Dr. Wu: We have attempted to balance our service to the best of our ability. Most of our requesters have been aware of it. In the past, we have, because of the small size of the unit and the cost of the feature, endeavoured that members who come and request the service, will be served on a first-come, first-served basis. There might be some delay or lead time difference as opposed to when our service was freshly installed.

When our service was first installed, we would not have had a backlog of reports to be prepared, and so on. Over the last four or five months, perhaps, our commitment to the committees has, of course, as you might be aware, drawn some of our resources. But within that time constraint, we have attempted to provide the normal turnaround, again depending upon the intensity of the request made to us, and the kind of accuracy that was required.

If I might suggest an example, Mr. Chairman, one of the controversial drugs was very much in the public domain recently. Because we, as a small unit, did not have that level of expertise within our midst, we had to devote a certain amount of time to research, not only of the literature that is available in Canada, but outside of the North American continent, in Europe, for example. So we now have developed the kind of expertise that would allow us to respond to a request surrounding the application of this particular drug, not only in terms of its conventional use, but in other uses which are being contemplated, for example, as part of the penal system.

For that reason, Mr. Chairman, sometimes minor delays might actually materialize into rather beneficial, productive means in the future.

Having established that, sir, I would suggest that there could be situations where a request might be delayed slightly because of repeated requests. For example, if a first study was made, and a secondary or more detailed follow-up study was requested, then we would have to reschedule the work.

The other kind of possible delay would be the request of a special, or separate, identified research officer to complete a given study. In this situation, that particular research officer would have to rearrange the schedule in order to accommodate that kind of research request.

At this point, Mr. Chairman, I would ask to turn over the question to Dr. Grayson, and see if she has anything to add.

Dr. Grayson: It is my understanding, from the four months I have been with the service, that when a member requires something, it needs to be completed in a short period of time. I am thinking of a private member's bill that requires drafting, or something for question period. All the research officers have been willing to work through the night, or weekends, or whatever, to accommodate that member.

Where there may be some delay is in the case of a research paper that is not required immediately. At that time the research officer will negotiate with the member to see when the appropriate deadline for both parties can be reached.

So I think that on those things that do require immediate attention, immediate attention has been given. On other matters that can be deferred, with the willingness of the member they have been deferred.

Mr. Chairman: I think what we are probably running into is that the nature of the structure is going to cause a problem. For people like myself, I have to go and do battle with the caucus about allocation of research priorities there. I do not have the ministry staff. The minister would turn around and say, "Give me that answer by question period this afternoon."

This is all a very rational discussion, but the fact is, I am not in an academic setting and if I do not have a piece of material ready for question period this afternoon, my opportunity to ever ask that question, to ever get an answer of any kind, to ever make use of the research material, really vanishes by about 3:30 this afternoon.

On some occasions, I could go upstairs to research and say: "Next March I am going to Quebec, I am going to speak in a symposium and I would like to have a nice comfortable package of research material on these nine items. Could you prepare that?" And we will all toddle off and we will all be happy.

All of what you said probably handles that situation very nicely. But if I say: "This afternoon I have a hot question on this new drug that is being abused. I have never heard of this before and I need a quick synopsis of what the stuff is, where it is used, what its side effects are, what studies have been done, and what is this animal," I need that by two o'clock this afternoon. If I do not get it, the opportunity for me to ever use that information may vanish within an hour and a half.

That is an unusual set of circumstances under which anybody has to operate, but it is a fact of life for opposition members, and for government members as well.

Do you have an idea of the time, just a ball park percentage, that research staff spends now on work for committees as opposed to on work for individual members?

Dr. Wu: I would have to recompute the time and report to the committee. The reason is we have not computed our work load on that kind of time-element basis as of now.

Mr. Chairman: We would appreciate even a rough indication of whether you are spending half your time doing work for committees of a particular nature and the other half of the time kind of juggled around. The closest you came to that was attempting to establish how many researchers you have got for how many members, that kind of detail.

Mr. Land: I think one complication would be that during the summer when the House is not sitting, and committees, as you know, are becoming increasingly active, during that period a very high percentage of our resources would be devoted to committee work, although individual members are still asking for papers and so on.

I would suspect that once the House begins to meet and some of those committees are less active, the percentage will readjust itself. I think it relates to the intense activity during the summer period.

Mr. Mancini: I want to thank the staff from the library for coming down to discuss our concerns with the committee. I have always been very concerned about the research service provided by the library for several specific reasons.

One, I have had to spend the greater part of four years here as a member of the Legislature with no research services available to me at all. It is no secret, Mr. Land, that the research provided through the party system goes strictly to the leader, and he uses up all of those services. I am sure the New Democratic caucus is probably the same.

10:40 a.m.

The government members who are in the cabinet can get their work done very quickly. Just to give you an example, the other day I was pressing Tom Wells for something at the start of question period, and by 20 minutes into the question period, he was prepared with a detailed answer.

The parliamentary assistants have research staff. They are able to hire, which gives them a one-to-one ratio, as good as they have in Congress. We, the forgotten members of the Legislature, have no one but ourselves.

So as far as I am concerned, I am going to guard that research ability you have for the individual members with all the strength I can. We have waited for a long time to get this backup support for the individual members and I, for one, am not about to see it go down the drain.

After looking at your statistics, it is evident to me that the committees have already taken over your department, in my view. The total of 307 requests, as compared to the 42 requests in total for the period from April to September 1980, shows very clearly the strain that the committee is putting on your staff for work.

There is no possible way an individual member can compete

with the committee. If a committee is made up of 15 or 16 members with the chairman, and if that committee directs your staff for certain work, there is no way that I, as an individual member, Mr. Ruston, or Mr. Rowe, or anybody else, could approach your staff with the same weight as can that committee. Even though, philosophically and mentally, you want the committee and the member to be equal, it just does not work in reality, in my view.

I have used the services of your staff a great deal. The work is always competently done. The staff is always more than cheerful. By and large, I am well satisfied. The time element has been a problem.

Dr. Wu mentioned that sometimes members want more indepth information, and of course I fit into that category sometimes. Sometimes we ask for things that are very narrow in scope and you have to wait for a certain researcher. I am prepared to put up with that. I am prepared to wait the length of time necessary when those particular problems come up, but I am not prepared to have the committees take over your department. I am not prepared for this to continue over a period of time.

If we let this go on the way it is over a period of several years, the first thing that is going to happen is 80 to 90 per cent of the time of your research staff is going to be devoted to committees and 10 per cent to the members. Over a period this evolution will take place and when it has happened over a period of years, no one is going to be able to change it.

I have watched a lot of things happen here and continue to happen just because it has been that way for many years and it is impossible to change. Yours is a new department, it is one year old, and I think we have a unique opportunity to ensure that the privileges and the rights of the individual member, like myself, who have no other place to go to serve my constituents, are protected.

I want to be able to speak forcefully for my constituents. I want to have the knowledge at my fingertips too, the same as the committees, the same as the cabinet ministers, the same as the parliamentary assistants. I believe I owe that to my constituents. I believe the Legislature owes that to my constituents.

That is my reason for bringing this matter before the committee. We talked a couple of weeks ago that I was going to do this. I hope you understand why we are doing it, and that there is no misunderstanding as to why we are here discussing the matter, and no misunderstanding as to why we want the individual members to be served. We are not saying we do not want the committees served, but we want to be right up there with them.

Mr. Chairman: That is the problem we are looking at. The numbers which you have given would leave the impression that about 80 per cent of your staff time goes into work for committees. Is that right, wrong, out of whack?

Mr. Land: I cannot respond directly. I think one reason is, if we were to remove the summer months and give you a startup

from roughly October until the present time, perhaps that would have been a truer level. We really just gave statistics for the current year.

We could provide you with some such kind of figure, but it is certainly my strong impression that with respect to the constitution committee in particular, which I believe was meeting daily, morning and afternoon, throughout the summer, that really has distorted the norm.

Mr. Chairman: Perhaps what you could do then, at your leisure, is attempt to get a workup of the percentage of time spent over a longer period and maybe even exclude the summer period where there is an imbalance. The committees are very active and the members are often not here on a daily basis. That might give us a more accurate picture of the work load that is there.

Mr. Land: Also, lest you or Mr. Mancini should get the impression--we are very pleased that Mr. Mancini feels strongly enough about this that he wants to make the case for the individual members. As far as we are concerned, that's great because it does mean it is becoming useful to members, and we hope will become increasingly useful.

I have not talked about staffing or staff for one reason, but I guess perhaps it does lie just on the horizon of this discussion. If we are heading for greater committee activity, perhaps to the detriment of individual members' short-term requests--on the longer ones I don't think it has been quite as difficult to manage those deadlines--then the question of staff does arise.

We have just recently come to full staff, so it has been hard to know--if I were asked whether we have enough research officers at present I would find it difficult to know whether to say yes or no, because we have just recently arrived at that number of seven. Also, unfortunately, one of our research officers has mononucleosis and has been off for about two or three months now, which really reduces it to six. It may be that we would have to look at that matter.

Also, speaking now in my capacity as the person who would have to go to the Board of Internal Economy and ask for additional staff, I would like to wait until I was confident we did need more staff and that the members had said, "You need more staff," so that would be my comment.

Mr. Chairman: From our perspective on this kind of thing, in the very oldest of parliaments, every member went in there on an equal basis. There was no such thing as departments or ministries or anything like that. There was just a group of people selected from the population and they found a big hall or a field where they sat down and they argued, but in that kind of basic parliamentary system there was a great deal of fairness because everyone had equal resources.

What has happened, of course, is that as governments grew, anybody who was part of the traditional concept of a

government--that is, the cabinet itself, the governing body--had access to information far in excess of other members. The closer you were to the governing party the better access you had, so even if you were a government back-bencher at least you had the ministers who were your friends and they had the opportunity to say, "Let this guy in and write a speech for him," or, "Provide this kind of research for him," and you see that in the parliament upstairs.

For example, you see that government back-benchers giving their maiden speeches in the Legislature often have a very nicely typed piece of script--even though you are not supposed to read speeches in here, everyone reads them--and they are standing there with the nice little speech somebody has handed to them. It looks good for the folks back home and it has little tidbits of information here and there that I couldn't get.

I go in there each day and do battle with the Minister of Health (Mr. Timbrell), who has 15,000 people working for him, and I have nobody working for me. That creates a little bit of unfairness in the process say I, and so do a number of other members.

10:50 a.m.

So what we are concerned about is not really that as an academic exercise the research services upstairs are functioning well or neatly, or whether you have more staff or less staff. That really isn't my domain. My domain is that I want to ensure that at some time we walk into the Legislature upstairs with reasonably equal access to information.

It is not that I am going to stand upstairs and read three weeks' worth of research into the record; it is often just that I simply want to know when I go in there that I am not going to make a complete and total fool of myself again today, that sometimes my material is accurate and sometimes I have information equal to that of somebody on the other side. That restores to the parliament the original concept, that this was a group of peers discussing something; and that is precisely our problem.

Mr. Ruston: When I was looking over your page seven with regard to requests for assistance, I was rather amazed that there were only 28 members who requested it; but now that I think of it, for the period from April to September the House was not in session. I would have to assume that the number of requests would go up considerably now that the House is in session, or so I would think.

What is your total staff? You have seven researchers and Dr. Wu and yourself. You have another staff--

Mr. Land: In the research unit, Dr. Wu is the head, Dr Grayson is the senior research officer. Then we have five other research officers, for a total of seven; that includes Dr. Wu and Dr. Grayson. Then we have two support staff, secretary-typist positions, at the present time.

Mr. Ruston: I understand what will probably happen, too, as I think you mentioned, with the committees making use of your services the members will probably then start to use them more. Before we say should have more staff, I think we are going to have to work it out for probably a 12-month period, from day one in April to the April of next year, and then we will have a much better idea of where we are going.

I don't think we can really come to any conclusion until we have really had a year of statistics, because this year the committees have been really meeting an awfully long time. Whether that will continue next year or the year after is something that I can foresee as changing considerably if the situation changes in the Legislature to the point of 70 on one side and the minority on the other side.

Ontario's being one of the parliamentary systems in the world that carries the committee system almost to an extreme, I can see that it very well could change. Then your staff would be working mostly for members. So I think we would have to be careful before we can make any suggestion to you that you need a larger staff that we have had a chance for it to run 12 months, and then we would have a much better idea.

Even then, I think we would have to be careful, unless it is a tradition that, once started, as Mr. Mancini has mentioned--but I don't think that is necessarily a tradition that will continue. If a majority government comes out of the next election, whenever it happens, I can certainly imagine that the committee system would be reduced considerably. I think that is something we have to look at in the future.

I would like to see one full year here to really know where we are. I don't think this really gives us any kind of a true picture whatsoever of the use of the research library.

Mr. Land: I would agree with that, Mr. Chairman. I don't think we have had sufficient time either from the standpoint of use or from the standpoint of staff, to make any longer term predictions about staff size, whether it is appropriate or not.

Mr. Rowe: I was going to pursue the same area that Mr. Ruston has.

Do you find yourself there is a backlog? We are talking about the research unit now. You have other employees in the library to whom a member can go to get certain information, dig out material and so on, books and what have you; but the research unit itself, do you find there is a backlog of inquiries from the members now?

Dr. Wu: We don't have a backlog of more than a month.

Mr. Rowe: What do you mean by a month?

Dr. Wu: If we stopped taking in new projects, everything would be totally completed in one month, so therefore, we need a one-month lead time at the most, at this point in time.

Mr. Chairman: That is precisely the problem. I mean, take myself as the obvious example again, because I'm one of the 28 who put in a request.

When your services first started off, it was possible for me to go upstairs, outline an area that I wanted information about, and get, within a two- or three-week period, the kind of information that I never had access to before. And I thought, boy, we have really got something that is going to put some fairness into the system here. I may not understand all of the stuff, but at least I got it in my hot little hands and I had the capacity to ask questions and to participate in the debates almost as an equal to, say, a minister of the crown.

But since that process began, I have seen the system slow down. Now, it might be satisfactory for a university professor to say, "Well, in four weeks' time I will have the answer," but it isn't satisfactory for me. I cannot ask a minister of the crown this afternoon, "What about this drug?" and then four weeks from now find out a little information about it. That is not an acceptable way for me to proceed.

That could be quite a reasonable and a rational approach for a university academic. It might even be acceptable, say, for a committee of the Legislature, which is not due to report for another six weeks. You turn to them and say, "We have these questions and we would like answers to them," and John or someone from research upstairs says, "Okay, but it will take me a little while to get that and I have other priorities," and gives us a very rational reason as to why we could not get that thing in short order. There isn't any urgency about it.

But for an individual member there often is, and what might seem like a very reasonable reply to the member, is not reasonable at all to that member. I am just speaking personally; I am finding that requests from me, or from someone in my office, that we need some information this afternoon cannot be met any more, and while on some occasions it is reasonable to say, "Okay, give us a week and we will have you that answer," I am not getting that reply any more. I am getting just what you said, "Give us four to six weeks and we will have a reply."

It is often my experience now that I am being frustrated, and I might just as well go over to my caucus researchers, because I will get the same answer there. They will say: "The leader has said this is the priority this week. We might be able to get around to what you want, Mike, in a week or 10 days, and maybe three or four weeks from now, you will have that answer."

I guess the point that Mr. Mancini and I are both trying to make with you is that--now maybe we are being unreasonable, we will grant you that--for our immediate needs, that turnaround time of four weeks is not good enough.

Mr. Land: Mr. Chairman, if I may, I think there is some misunderstanding. I think that Dr. Wu's response was that we have work now on our desks to clean up. It was not for approximately a month. It was not, I think, to say that if you came to us today,

before the House met, we would not in fact drop everything and give you a reply. We are not going to tell you it is one month, so I think that should be made entirely clear.

The backlog of work has no relation to the deadline you have, unless it is one of these deadlines. As an ex university professor, I can assure you, the deadlines are not that free and easy in universities either.

I'm fully aware of the needs of the members--that they have to have that information. As you have said, it is no good to get the information at three o'clock if you need it at two o'clock. And that is what I have told all of our staff, that the members need the information when they need it, so it is no use giving them a splendid paper two days later. That is worthless. It's a case of get the information when they need it.

Mr. Rowe: I would think there are many inquiries that come to the library just for information--for this afternoon as an example, as Mr. Chairman has said--that do not get to your unit; they can be handled right at the desk there.

11 a.m.

Mr. Land: Yes, Mr. Rowe, there are a lot of those quick references where someone might simply want to validate some information for use. So there are a lot of quick inquiries that don't necessarily constitute research, that are handled in the library service, as distinct from the research service.

But I would like to know, Mr. Chairman, because I would be very disturbed, whether you or Mr. Mancini, or any members of the committee or the House, have been turned away from the research service, or deferred beyond a point, because I truly would be disturbed.

Mr. Mancini: What are we to say, professor, when we approach your staff and we make a request--I know it is on a first-come, first-served basis; I know you have to serve committees; I know you have to serve other members--and the hardworking staff that you have there say, "Well, it's going to take this amount of time"?

We have nothing further to say, because if we say something we are being unreasonable, and it is true. If I approach Dr. Wu and he says, "Okay, Remo, it is going to take four weeks to get this done." I trust him enough to believe that it is going to take four weeks to get done because of all the other circumstances involved. What we want to do is eliminate some of those other circumstances, so that Dr. Wu can get it done in two weeks if it's possible. But that is the point that we are trying to make.

Mr. Land: The first question I would ask you, Mr. Chairman and Mr. Mancini, is, "When do you need it?" I would not tell you how long it is going to take to do it; I would ask when you needed it. And as Dr. Grayson said earlier, a lot of our people have put in work over the weekend and nights and so on, and we are prepared to do that.

The reason we ask that of course, is to try to respond to the priorities. If someone tells us, "Well, there's no hurry; in the next six weeks, but I would like it done." Or somebody says: "Look, I really have to have this by Friday noon. I hate to put upon you, but I really have to have it." Then we make every effort--I would hope; I am assuming this because that is the standing instruction from me--to defer something else and get it done.

So, as I say, I would be very disturbed if the feeling is that now we are dealing with committees, we don't bother with individual members. That is certainly not my intent I can assure you. I would think that what we want to be sure of in the research service is that we are asking that question right off the top, "When do you need it?" not telling you, "This is going to take six weeks," or eight weeks, or three months.

Mr. Mancini: Let me put it another way. Say our chairman calls and says: "We need a researcher from your department. Today is Thursday; our committee is starting work on Monday." Would you make a researcher available?

Mr. Land: Are you posing this as a hypothetical question?

Mr. Mancini: Yes.

Mr. Land: We would certainly make every effort to do so.

Mr. Mancini: Say an individual member such as myself calls. You have already made this researcher available to the chairman of this committee and to some other committee. And I say: "I need a detailed paper. It has to be done in five days." I cannot believe that I would get the same results as the chairman.

Mr. Land: Perhaps Mr. Mancini, the reason is not related to a committee. It may be related to the nature of the request. In other words, it may have nothing whatsoever to do with work for committee, but to the need to pursue all kinds of leads and gather information.

Even if we had seven researchers all available, it might still take two or three weeks to get the information, say from other provinces, or phone associations, or research institutions and gather the information. So that would be something apart from--in other words, the reason for the delay might be related to the nature of the research.

Mr. Mancini: That is one possibility. But with a department of seven, which is not a large department, if you take away and give to Mr. Breaugh the expert in your department that I am looking for, I cannot be served.

Mr. Chairman: I think what Mr. Mancini has pointed out is, the world in which we live and work in every day is often unreasonable, irrational, an emergency crisis kind of thing, and it does not lend itself well to rationality. I think he is pointing out the problem that I tried to point out. I have never been turned away by research upstairs, but I have often recently

been given a very reasonable reason why what I want now cannot happen. And I don't feel that I want to get myself in the position where I have to go upstairs to research and scream and yell and establish there's a priority. I can do that with caucus and you get the same result--nothing.

Mr. Ruston: Maybe your request is unreasonable to the point that they cannot make it available even if, as he said, they had the seven researchers to do it.

Mr. Chairman: I don't deny that for a minute. Basically what I am left with and the conclusion at which I have arrived is that we are going to have to make some divisions in how we do research around here.

It seems to me that the party leaders are well served by their research staffs. It seems to me now that we have managed to accomplish that our committees are well served by research staffs, and that we can afford to move cautiously through some modest expansion program in that.

What is left hanging, though, is that original problem I began with. The back-benchers, and in particular the back-bench opposition members, don't have access to information to the same degree and with the same speed that other members of the House have.

That creates an unfairness. Somehow I am trying to find a system which would get us out of that. Maybe we are pointing to the inevitable, that you simply go through the ranks of the members of any parliament, minority or majority, and say that, all right, cabinet ministers have their staff, parliamentary secretaries have their staff. There may be sufficient staff in here to run a committee system. But then you get down to the bottom line.

There are those people who are called--not front-benchers--back-benchers, or ordinary members or whatever term you want to put on them. Somehow we have to identify who these people are and provide some research capacity for them if they choose to use it.

Now, I am not making an argument that we give to a member who does not want to be informed and does not want to have a researcher and does not see the value of that, somebody at \$20,000 or \$25,000 a year who is never going to do anything. But I am saying that at least if a member chooses to perform his or her role as a member of Parliament, that capacity be available.

It may simply be that we go to what the committee recommended, that there be research staff available for individual members. The mechanics may be that they are assigned to library services. At the member's request, he can have a researcher assigned to his portfolio or his responsibilities.

Mr. Land: The Morrow committee, as you know, recommended an individual researcher. If one removes the cabinet, that is, if one reduced the number of members to about 100 instead of the 125

for individual researchers, that would be a long way from the seven we now have.

As I say, I am not here really asking this committee to endorse any kind of request for staff, but I am just projecting down the road, as Mr. Ruston has said. I don't think there is enough evidence yet to come to a conclusion that we do not have enough staff. But certainly it does not take much economics to realize that, between the figure of seven and the figure of 100, there is a vast middle ground.

One of the possibilities in future might be to increase the research unit as a step towards this. I am here not speaking against any kind of recommendation for individual members. I am simply saying that a middle position might be to increase the size of the research unit.

Certainly, the three of us here would like to have brought to our attention any time that you really feel you have been put off or deferred. I really would like to know that; I mean that quite sincerely. We have to do something about it. If it is not working for the individual member, then there is something wrong. So I would like to know about it.

I fully appreciate your short turnaround on occasions. Particularly when the House is meeting, you cannot very well tell the House, "Don't meet at two o'clock today, meet at four, because I want to get this stuff from research."

Mr. Chairman: "It's going to put you guys out of business."

Mr. Land: Certainly, we are fully appreciative of the needs of individual members. We don't at any time mean to subvert their needs for the needs of the committees. We hope we can do the balancing act. It may be that is not realistic.

As Mr. Ruston has pointed out, I think the data so far is insufficient. The committees have been very active this summer, particularly the constitutional reform committee. To some degree, that has distorted the whole picture, plus the fact that the individual members normally would be making their requests during the session. It does not mean that they do not also make it when the House isn't sitting, but the bulk of the individual requests will come from October to mid-December, and then when the House meets again.

11:10 a.m.

Mr. Chairman: I think as far as I would go with this complaint is that I would be prepared to say that a year ago I thought I had something which I had sought for a long time. I am now left with the uneasy feeling that research capacity which appeared and showed its lovely little head for about a three-month or four-month period now appears to me to have dissipated.

It has gone off. It has been channelled into other resources. I don't want to rake you over the coals. I don't want

to suggest that we take a whole day's profit from the sale of alcoholic beverages in this province and put it into research for the members.

Mr. Land: I kind of like that idea. I'll drink to that.

Mr. Mancini: I just want to say my view is that the committee structure is not going to change no matter what happens after the next election. Since 1975 a great number of new members have come to the assembly. Having spoken with people who have been here a long time, it appears that the styles of the individual members have changed to what it was prior to 1970. The Legislature has changed.

As the present government has seen fit to send issues which could be called "hot potatoes" to committees, these same problems will develop no matter what the next government is. Those urgent and pressing issues which are hot potatoes to the government will develop and they will see a need to send that off to committee. That will happen. Anyone who wants to be realistic will realize that will happen.

They do that in Ottawa with their committees and they have a majority government. If we do get back to a majority government status here, I think there will be enough members left from this new era to demand, even within the government caucus, that the committees still continue to function.

I was not here prior to 1975 but I can recall during that majority government prior to 1975 they had many select committees going all over the place. They had a select committee on drainage; they had a select committee on snowmobiles; they had a select committee on all kinds of things. Who is to say, if your department was here then, that they would not have seconded your staff to go study snowmobiles in Australia or wherever they went?

I don't foresee the problem going away with a change of government or with a majority government. This problem is going to remain.

You have outlined the problem in your report. The problem is that we have a ratio of 18 to one and the Parliament of Canada has a ratio of seven to one. You are trying to do for us what the research department of the Parliament of Canada does with double the staff. I want to say to you, sir, no matter how good your intentions are, no matter how good your staff is, no matter how diligently they work, they cannot over a prolonged period of time do what the double the staff can do.

I think our discussion today leads me to the conclusion--I am willing to wait until April. It's only a few months away and we'll be in the middle of an election anyway so I might not need your services then. I'll be ready not much before then.

When we come back, I think your stats will show that the members need to be served better and the only way to serve them better is to increase your staff closer to the seven to one ratio. You cannot do what the Parliament of Canada does for their

research department with half the staff. I don't think the chairman and I have been critical at all of your department, or how it is run or the quality of your staff. We just want to ensure that the individual member gets to keep this new privilege that we waited almost 100 years for.

Mr. Rowe: I think you are approaching it the right way, though, Mr. Land. You base it on experience. If you find yourself that you are not able to cope, that is when you will make the approach for more staff. At the moment, you haven't really felt that you have been overwhelmed, I gather, from inquiries.

Mr. Land: No. We have had insufficient experience to this point to come to any conclusion.

Mr. Rowe: When you ask for more staff, you are going to have to justify it. It is going to be by the statistics that you keep.

I am sure a lot of inquiries go to the library--that telephone rings in there--that do not necessarily occupy your seven.

Mr. Land: That's right.

Mr. Rowe: A lot of people think all the calls go to the researchers. Well, that's not true. It's just for those who want some indepth information on something.

What is the staff complement in the library, for instance?

Mr. Land: The total staff of the Legislative Library, including the library proper, the research, press clippings and the check list and catalogue is 59. About 30, roughly, of those would be in the library service proper.

Mr. Rowe: I imagine a lot of the inquiries and visits by members are looked at without going to the research unit.

Mr. Land: Yes, indeed.

Mr. Rowe: That is what I think a lot of people probably do not realize.

Mr. Land: I hope I did not leave that impression, that the only way one can get information is to go to the research unit, because the information and reference service of the library itself does handle a lot of these requests.

Mr. Chairman: One other question which John Eichmanis just raised with me: Will you refresh our memories about who precisely owns any research that has been generated?

For example, if I make a request for information and you do a little package for me, it is my understanding that is held in confidence. I may use it in any way I see fit. It is retained upstairs but it has not really become a public document in a sense that any other member of the House could go upstairs and say,

"Would you give me the file you did for Mike?"

Mr. Land: I am now speaking for the individual members against the committees, which is, of course, for the committee. Our work is confidential to the member. The member may do anything he chooses to do with it. He may use it as the basis for an article, or speech, or talk or whatever.

We have no restrictions on how it is used. We do try to cite sources when statistics are being used, of course, so that if you should quote those you have a position to fall back on and we have also, so we are not providing statistics about which there might be some question. The individual member is free to do whatever he chooses to do with the information.

We really haven't run into this. There was a question at the beginning as to how frequently an identical request would come along. I think it is safe to say that it is virtually never. They may be on the same subject, but they are usually totally different aspects or approaches to that subject. So it has not posed a problem--that is, one member asking for material and another member asking for the same material. We have no objection if members wish to share it with the caucus or whoever.

Mr. Chairman: What would be your response if this committee recommended, as a starting point, opposition critics have a researcher attached to them per se, so that the ministry have their staff on one side of an argument and on the other side are researchers appointed to the critics? That would exclude a raft of people and probably get it down to maybe half the members in any given parliament who would have a researcher attached to them. How would that relate to your services?

The conflict I am trying to get at here is it seems clear to me you can establish research capacity in something like a library upstairs which can work very nicely for a committee, because a committee can then have the research tabled. It hits the table at the same time for everybody, the same as we do with our research for this committee. So everyone gets the same documentation. Everyone gets it at the same time. Whether you read it, use it, or whatever, is your own business. But there is a level of fairness involved in that.

11:20 a.m.

When you move past that and go into another field of servicing opposition critics with research material, it would then be difficult to retain the same level of fairness. You could, for example, have opposition health critics who might make use of research material in different ways. The Liberal critic and the NDP critic in this House might have very different sets of priorities. So you would again have to split that, and you would have to say that each opposition critic, if he or she chooses to, may designate a research person to provide them with material, and they set their own priorities and on and on. It might be another variation of providing researchers to opposition members.

Mr. Land: I guess there are a number of patterns. The

pattern that Ottawa has adopted, which is the one that is most familiar to me, is that the research branch of the Library of Parliament has about 50 officers. Some of them are working for committees. The remainder are working for individual members. It is my understanding that opposition critics, and so on, would be served in their capacity as individual members.

But because of the size of that unit, in contrast with the small size of ours, they are very likely to have, let us say, a health specialist, someone whose training is in the economics of health, health administration, delivery of health systems, and that kind of thing. In that way they provide the information, rather than assigning a researcher to an individual.

One of the reasons, or one of the virtues, I suppose, of the pooling system, that is to have a research branch--and here I am thinking of Ottawa--as against individual researchers is because of the very uneven activity in the House last year when we had two federal elections--was it?--in 1979, the demands were minimal on that service.

Ottawa has tried to move in both directions, that is to increase the number of officers in the research branch and, at the same time, to provide research assistance to the individual members. I think in that latter group you get very uneven use by members. Some use the facilities very heavily, as you have suggested, and others use them almost not at all.

Mr. Chairman: What I am trying to get at is I do not want a mechanism which puts in place very expensive research staff which does not do anything.

Mr. Land: No.

Mr. Chairman: And the only kind of solution I can come up with is to say that research capacity is a service to members like the use of the telephone, the mailing privileges, and all of that. And in all of those areas what we have done is identify that there are certain types of services which a member is entitled to use.

We publish how much I spent last year mailing things out, telephoning people, and all of that stuff. But I do not have to use those services. If I think mailing to the riding is not sensible, I do not do it. It is my decision. I can do that. If I want to, that provision, under certain guidelines, is there.

Perhaps we could take the same attitude towards the use of research staff, if the House could decide that certain types of research staff would be made available to the members. If I choose to ask for a researcher, as an opposition health critic, I will bear the brunt of that. Somebody, once a year, will publish a discrete expose which shows how much of the taxpayer's dollar I spent on that, and that is my responsibility as a member. If I choose not to do that, if I say it is not necessary, I would never use that kind of stuff, it is my option.

Perhaps that might be a rational kind of mid-step to use, to

define it as a service like everything else. If I think it is a rational thing for me to do, I may avail myself of that service. It is published in accounts once a year. I can be subject to criticism for it. That might provide us with a sensible middle ground here.

Mr. Land: I think the difficulty, if I understand you correctly, Mr. Chairman, of assigning, or seconding, or, in fact appointing, hiring a researcher for an individual member is this. In one person, one only gets a certain competence. In other words, it is economics, or political science, or health, or labour, or environment. But you do not usually get more than one competency in one person.

So that if you, as an individual member, had someone who was, let us say, an economics of health specialist, and your interest changed over a period of time, or because of legislation impending, and so on, and you found out you did not really need that competency as much as you needed something else, you would be locked in. If you have a pool of resources, then I think this is less likely to happen.

One of the bases for our research service is its nonpartisan nature. I think that if one were to assign the researcher to the House opposition critics, it would be more appropriately done perhaps from the caucus party researchers. I think that is the area where that would be appropriate. Our research should be appropriate no matter what party is receiving it. In other words, it is factual and it is up to the member to select the points that he wishes to make, and use it in any way he chooses.

I think if that system were developed, it would more appropriately arise out of the party caucus research, rather than the legislative research.

Mr. Chairman: I think it is fair to say in our discussions in Washington about congressional research capacity this committee was not very happy with that. We really felt that although there were legitimate arguments originally for that pooling arrangement and the independent research sources, it seems to have almost strangled itself now.

I think there were something like three major places a member of Congress could go for information. It could come out in different sources. But it really seemed to most of us that there were people falling all over themselves, and they were generating research like you would not believe, but research that few people would read, that few people would use. If you were to attempt to do some kind of a cost analysis on this, there were large amounts of money being spent not too wisely.

It is our collective judgement, I think, that we do not want to get ourselves into that position here. We want to establish clearly what the needs might be and then attempt to find the most effective and least costly way to meet those needs. So we have some reluctance about this great pooling of information, however valuable that might be. We were not terribly impressed with the congressionals.

Mr. Rowe: We should keep in mind and reinforce what Mr. Land has said. Each caucus is allotted so much money per member for research. If your leader's taking it all, you had better talk to your leader. It is the same thing in our caucus, as far as that goes. We do not have any special privileges; we can call up the same people as you or anyone else for particular information on any topic.

I think the research for the individual member, I agree, really comes out of your own caucus funds, and if it is not enough ask for more funds, if they will do it. They have been increased, those so-called designated research funds, over the years. I forget how many thousand dollars it is for each member now. That is the purpose of that.

If you want research for your particular purposes, that is another side of the argument. (Inaudible) to figure that out for these people to dig out the information, research it. It is their approach to the (inaudible). That is the difference.

Mr. Chairman: Further questions?

11:30 a.m.

Mr. Charlton: Just a couple of comments on this latter part of the discussion.

I have to agree with Dr. Land that what we are discussing now in terms of services to individual members are two totally different animals. The kind of thing I think you are referring to is, yes, it is an assistance to a member, and yes, it is a research capability in a sense, but it is not research in the sense of specialization and expertise that the library researchers are trying to establish, or have established.

I think the kind of thing you are talking about, in terms of services to critics and/or to all members except cabinet ministers, or however far we want to get into it, that kind of capability is political in nature and not necessarily research oriented at all.

The way I perceive the whole thing, the kind of animal that you are talking about is the political nose, if you like, the put-it-all-together man, the person who can pull out of general research on a particular topic what is politically useful to a critic against the government, or from your perspective as a critic or as a representative of the party philosophy, or whatever the case happens to be. I think they are two totally different animals. I do not think it makes sense to discuss extended services to individual members in relation to the library research staff.

It bothers me, for example, that we are in a situation right now where, as has been discussed, we have to go to the library research trying to dig out information for two o'clock this afternoon. In my view, this research facility should be there for more general and major research projects out of which your own party people are going to pull the stuff that is useful to the

party, the caucus, the critic and so on. We should not be having to go to library research to try to quickly rip out something for this afternoon's question period.

Mr. Rotenberg: I am sorry I came in late, Mr. Chairman. I think Brian has put his finger right on it, and I agree with him entirely. I feel that the library really is there to give to our researchers, or to ourselves, the raw data, and not to edit it and not to select what you want or what you do not want.

If you have a problem on widgets, they will say, "These are the books on widgets, and these are the pamphlets on widgets," and at least we can find out about widgets. I think that is their function, to tell you where you can find the stuff to get the raw data, or maybe even pull some things out.

I do not think it is the function of the library research to, in effect go and say, "Hey, write me a paper on widgets so that I can give a speech on it." That is not their function. That is the function of my staff or my caucus research, and so on. From what I can gather, I think on the first level, the library is doing an adequate job and the second, they should not be doing it.

Mr. Chairman: I think there is that distinction which we really do have to make.

Again, to use my personal experience with the services you provide, on a number of occasions you have given me more material than I have ever wanted to see. Then it was my job, or that of someone, who, in my case, is working as a volunteer, to sort through the material which had been presented to us, and to see if out of that there was a trend, or a pattern, or something we had been looking for. And again, it is different kind of research, I suppose. I just want to get your feeling on it.

I sense from what you said this morning that you do not really want to get into that aspect of it because that is political research and we should make that distinction clear that it would be unfair or not appropriate--let me use those words--to have library services doing that kind of research.

Mr. Land: I think that we could provide generalized information such as Mr. Charlton suggested, but if we were talking about a secondment or attachment to an individual critic, I think that really jeopardizes our neutrality. We have to serve all parties and we do serve all parties.

In the arrangement you propose, if the staff were to come from our unit, I really think that you and your colleagues would have some suspicions about the neutrality of an individual who, for a long period, served an individual member. I really think it jeopardizes our neutrality.

Mr. Chairman: The other side of it is from the member's point of view. Every time I use a piece of information in the House or in a press release or in a statement anywhere, my whole reputation goes on the line, so I really have to have an ongoing and binding and trusting relationship with people who provide me

with information. That is difficult if someone is working out of a pool situation.

In my own experience here there have been a couple of occasions when for short periods of time I had an intern, and we often had to have long discussions at the beginning of the process about what I was really interested in. First, I had to get an understanding of what kind of information that person would generate, and then that person had to get an understanding of what I was really interested in.

It takes a while to build that understanding. When it works effectively that person knows almost instinctively the kind of information flow I want coming to me, and I know instinctively that will be valid information I am using.

The truth of it is we don't normally sit down and have a long discussion about this. Somebody catches me on the way in at a quarter to 10 this morning, before I come to this committee meeting, and gives me 10 minutes of verbal briefing on a matter. I give a little feedback and say, "If you could get this, this and this, that might be a useful question this afternoon."

I have to know that probably about one o'clock this afternoon I will go through a caucus question period meeting, and I will have to convince my caucus colleagues so I have to have initial information there. There is a chance to kind of brush up on it and perhaps another 20 minutes for the researcher to put that in shape and form.

So it is not the normal research capacity that we are talking about. It will happen, as I know that it happens, for example, with ministers, there are big briefing books prepared, but when you get right down to the crunch it is the staffer who gets the minister's ear for two minutes on the way in to question period who makes the difference as to whether that minister is well briefed or not, and it is a whole different ball park from normal research.

Any further questions from any of the committee? Comments?

We thank you for coming down and spending the time with us this morning, and I hope you go away from here feeling that the members of this committee appreciate the research capacity that is there now. We are not grinding axes this morning; we are attempting to search for a means to provide answers to some problems which individual members are having.

I would think it remains the goal of the committee to try to establish not additional services or expenditures of money, but some measure of fairness in the parliamentary process so that at some time we will hit the point where we have returned to the original idea of parliament, that it is a peer group arguing and exchanging information and points of view. That is our attempt.

Mr. Rotenberg: Some more peer than others.

Mr. Chairman: Some more peer.

Thank you very much.

Mr. Land: Thank you. It has been helpful to us, too, to hear the views of members.

Mr. Chairman: For members of the committee there are several options which are open to you. We have kind of gone around the block on this this morning. Mr. Mancini raised the matter, and I told him at the time we would see what we could do to draft a motion, if such a motion was to be put. It seems to me that there are several options available to you.

I think you have a copy of the motion that was put together for Remo. That is one approach to it.

The second one which might be suggested to you is that you might want, either in the form of a motion or give us some direction, to draft a letter to send over to Government Services, and I suppose there are a range of options after that. You might just want to make a pitch for more services in the existing research capacity. You might want to write something to the Board of Internal Economy.

I think when it gets right down to it, though, the motion drafted is about the only one which is available to this committee. It is a little complicated and a little more awkward perhaps than I would like it to be, but it does deal with the report which we tabled in the House and it offers an amendment to that report on committees. Whether you want to clutter it up by sending in an amendment to a report that has not been debated yet, or whether you want to hold on to it and move it with notice that evening, or whether you simply want to send this to government services committee, or whatever, I don't know; we are open to comment.

Mr. Rotenberg: There is one other option. We can do nothing and say that so far everything is fine and let's just continue on and see how we are doing.

Mr. Chairman: That option is always open. We are well aware of that. We don't need to draft a motion to do that.

Mr. Rowe: If any member feels they are not getting enough research such as your health critic. Your House leader sits on the Board of Internal Economy. If you (inaudible) he should be presenting the case to the Board of Internal Economy to up the amount per member per party. What is it now, \$1,500? I forget what it is. It doesn't matter. It has been changed on various occasions for that very reason.

11:40 a.m.

Mr. Chairman: I am just trying to point out there is this range of options available to the committee if you want to make a statement or move a motion.

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We attempted to draft this one. It is unfortunate that there is a little overlap between the members' services committee and

this committee in terms of how we deal with this. As a courtesy to the members' services committee, when you are directing motions and so forth you may want to have them participate in the process. But when it gets right down to it, to be procedurally correct--as we always try to be in this committee--the motion which is drafted here is about the only one that we could come up with.

Mr. Mancini: Why don't we just send today's Hansard to the members' services committee and to the Board of Internal Economy? We could say that we have debated this matter and feel they should be aware of some of the concerns that were brought forward. That would be one step we could take.

It doesn't really matter to me whether I put this motion now or during the debate of our committee's report. It might be best to do it in the House because we are amending something we haven't even discussed yet. Possibly other members in the House might take a more active role in the debates--maybe even some of the Tory members who didn't participate in our last year's procedural affairs report. What do you think, David? I don't know.

Mr. Rotenberg: It depends. One doesn't talk just for the sake of talking. If the report is good you just adopt it.

Mr. Mancini: But we should have some representation from your side though.

Mr. Rotenberg: The representation comes when the hands go up.

Mr. Chairman: We have just had a dissertation on the role of a government back-bencher. Participation is when their hands go up.

Mr. Mancini: I know they get their marching orders in caucus and all that.

Mr. Chairman: Could I get some consensus from the committee? I think what Remo is suggesting is that we will send the Hansard with some sort of covering letter to members' services committee and to the Board of Internal Economy.

Mr. Rowe: I really think before we go off half cocked in any direction we should wait and see the statistics. They have just recently gone up in staff, although they are down one right now because of the illness of one person, unfortunately. But I would think that any demand for more services, any need for more services would be evidence of (inaudible) to that group right there.

At the moment they have just built up to what they were asking for. I think it would be wrong for them to start going next week to the Board of Internal Economy and asking for more staff unless they can justify it.

Mr. Chairman: Are we in agreement that that is the way we will proceed with this? Will we send the Hansard off to the board itself and to the members' services committee, along with a

covering letter from me, pointing out that these concerns were raised?

Mr. Charlton: I would agree with that, Mr. Chairman. I would just like to make a very brief comment on the proposed amendment which Remo suggested he may move in the House as an amendment to our report.

I fully agree with your concerns and Remo's in terms of the possibilities of what may happen, but I would find the amendment much more acceptable if it was turned around--if it was positive instead of negative. Without giving the exact wording, I suggest, Remo, that you reword it to say that it is the feeling of this committee that in the performance of its duties to committees of the House, the research service of the library will not allow its services to members to suffer.

That, perhaps, would imply that at the point where members feel their services are suffering, they will sit down and reassess and add staff if necessary, or say that it is not appropriate work to be doing with committees or whatever. Just turn it around and make it a positive approach.

Mr. Rowe: I don't really think a motion like that accomplishes anything anyway. Make that part of your discussion.

Mr. Rotenberg: I don't perceive the problem nearly as much as I guess Mr. Mancini does. I have no objection to the Hansard going forward, but at this stage I don't think I could be in support of a motion of this type which might restrict the library's activities to the committees. It might save us a lot of money, but that has nothing to do with adequate service. At the moment I don't perceive enough of a problem that we should be taking any action other than just forwarding this discussion on.

Mr. Chairman: Okay. We are in agreement, then, on how we will proceed on that matter.

One other matter before we adjourn today. The staff has asked if it would be possible not to have a meeting next week so that they might expedite the preparation of the report on agencies. Are we in agreement on that?

Agreed.

The committee adjourned at 11:46 a.m.

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STANDING COMMITTEE ON PROCEDURAL AFFAIRS

GENERAL BUSINESS

THURSDAY, OCTOBER 30, 1980

STANDING COMMITTEE ON PROCEDURAL AFFAIRS

CHAIRMAN: Breaugh, M. (Oshawa NDP)

VICE-CHAIRMAN: Davidson, M. (Cambridge NDP)

Charlton, B. (Hamilton Mountain NDP)

Mancini, R. (Essex South L)

Rotenberg, D. (Wilson Heights PC)

Rowe, R.D. (Northumberland PC)

Ruston, R.F. (Essex North L)

Sterling, N.W. (Carleton-Grenville PC)

Research Officer: Eichmanis, J.

Clerk: White, G.

LEGISLATURE OF ONTARIO

STANDING COMMITTEE ON PROCEDURAL AFFAIRS

THURSDAY, OCTOBER 30, 1980

The committee met at 10:09 a.m. in room 151.

GENERAL BUSINESS

Mr. Chairman: I see a quorum. I think we will do the meeting in two parts this morning. There are two matters on the agenda. We will just do the preparatory work on that and then the remainder of the meeting we can go through the draft report on agencies and for that part I would assume you do not require Hansard. Maybe we could just get on the record a couple of matters I have been approached about.

The first one is the matter of wiretapping and I believe that the clerk of the committee has distributed a little package of correspondence which, for a variety of reasons, frankly, most of which escape me, did not come to my attention until recently. The Speaker was asked by the federal Solicitor General to make some comments on matters which had been raised in several legislatures now, the heart of it basically being that the Royal Canadian Mounted Police has on more than one occasion installed wiretaps on members' telephones. Aside from the straight legality of the thing, there are matters of privilege connected with this.

10:10 a.m.

The Speaker replied, I believe, on August 29, 1980, providing his opinion on the matter concerning members in this House. That letter is now in your hands. It should have come to my attention in August but for some reason did not and I am not quite sure what happened in that regard. All I know is that I had a conversation with the Speaker and he acknowledges that a copy of this letter should have sent to me as chairman of the committee and that it would then go on our agenda, but it did not until just recently.

That matter is rather complicated and it is further complicated, I suppose, by a point of privilege which I raised in the House concerning the telephone monitoring system which is now acknowledged and in place and under the control of the Ministry of Government Services.

Those matters are related and I think this morning I would simply like to get them on the record and point out to the members that we will have those matters before us in a subsequent meeting. That is one matter which has now been put on the agenda of the committee.

Mr. Davidson, you had a matter you wanted to raise with the committee as well.

Mr. M. Davidson: Yes, Mr. Chairman, the matter deals with the special occasion permits that are being issued in Ontario. I think committee members will recall we had the minister before us during our hearings on the Liquor Control Board of Ontario and in Hansard dated October 1, 1980, he answered questions relating to the new special occasion permit and the regulations that are applied thereto.

In addition to that, he has answered questions in the Legislature from members, both in the Liberal and New Democratic parties, relating to special occasion permits and I believe there is a contradiction in what he is saying in the minutes of our meeting of October 1, 1980, and some of the answers to questions he has given in the Legislative Assembly and what is taking place.

During one of the question periods he was asked a question relating to ethnic clubs and Mr. Drea's response was: "I would ask the member to name me one. Every ethnic or social organization that obviously raises funds to do something for the community will have no difficulty whatsoever in getting a permit. The only time they might have some difficulty is when they want to use the money for their own hall and will not admit the public. If they admit the public or if they put the money into parts of the hall used for cultural or community purposes, then there is no problem whatsoever."

A week ago last Friday I received a call from the president of the Holland Canada Club in my area regarding a special occasion permit they had made application for; they had applied for the permit under the fund-raising portion of the permit. They were turned down.

I approached Mr. Drea and Mr. Drea did get on the phone and he called, I believe, a Mr. Cooper at the Liquor Licence Board of Ontario. I was told at that time all they had to do was submit a letter outlining where these funds were disbursed and there would be no problem.

This club had gone to a great deal of trouble in setting up an event for last Saturday evening and the band they had coming to this event was Walter Ostanek's polka band, which is probably one of the better known polka bands throughout Ontario and, of course, charges a relatively high sum. They had also sold tickets throughout the community, not only to the Holland Canada Club members but to various other ethnic groups and to persons who wanted to attend that event.

Over that weekend, after I had spoken to Mr. Drea, I approached the president and he and his secretary drafted for me the kind of letter that Mr. Drea had suggested should be put together in order for them to qualify for the fund-raising permit. I brought the letter to Toronto and I also arranged to meet with the director of the special occasion permit branch, Mr. Doug Rolling.

I handed the letter to him personally and sat down and discussed the issue with him for approximately 45 minutes. He said he could not give me an answer at that time, but he would be in

touch with me. Between Monday and Wednesday of that week, we had numerous telephone calls back and forth, both me to him, him to me and myself to the president of the Holland Canada Club to clarify some of the matters that were there.

On Wednesday of last week, Mr. Rolling informed me all that was really required now was for Mr. Westerveld, who is the president of the club, to give him a call, tell him the store at which the liquor licence was being purchased and he, personally, would call through and see that the licence was okayed.

That licence was never okayed. That call was never made. I have attempted, this week, to get hold of Mr. Rolling. The only permit they were able to operate under and had to get in order to make sure the event was not a total failure was the social permit where the prices are set under the regulations at 65 cents for a bottle of beer and 80 cents for a glass of liquor.

That same evening, I left there and I went over to the Portuguese club because I had been invited to partake in the choosing of a beauty queen. I noticed that they also had their prices set at 65 and 80 cents. I inquired why, and I was informed they had applied for a special occasion fund-raising permit and had been turned down by the liquor licence board.

I would just like to read to you, if I can, out of the minutes of our meeting of October 1, some of the things the minister said. He said, "I will tell you that virtually any social organization--fraternal, service club, local, political, whatsoever--that is in the general area that its funds one way or another go to community betterment, which is the same thing as in the Lotteries Act, is eligible for a fund-raising permit."

He later goes on and says, "No permit can be refused...So in this short term an application cannot be refused."

When he talks about explaining what kind of a licence it is that could possibly be refused, he says: "Now we say, 'It is in an area and we want to refer it to head office,' and in that way, unless it is a total and absolute no-no, and then that would be that Monty Davidson wants a permit for Monty Davidson's pocket type of thing...People look at community betterment and they say, 'But we have been running an ethnic hall.' We say, 'That is community betterment because it is something that is in the community.'"

I think there is a contradiction in what the minister has said to us, within this committee, what he has said in the House, and what, in fact, is taking place. I would personally like to see that we either get the minister back here or we get the director of the special permits branch before this committee to find out just what is happening with regard to special occasion permits.

I am not suggesting that the minister went out of his way to mislead us. I think, perhaps, the problem could be that the minister is not even certain as to what is happening with regard to these applications for fund-raising permits.

Mr. Chairman: Any other members want to make a comment on this?

Mr. Ruston: I can see the problem and I know what is going on. But I am not sure if the standing committee on procedural affairs--although he did appear before us with the Liquor Control Board of Ontario and added as a courtesy, I guess, he talks about the licensing. It seems to me that really, on first impression, be done through the House and not through our committee. I do not know.

Mr. Chairman: The difficulty that I would put to you is there is a little cross-purposes here. The minister appeared before the committee during the course of a review of an agency. He did testify under oath. It would appear that there is a discrepancy between the testimony which was provided to the members of this committee and the practice which is now being carried on by the liquor licensing board. If that testimony had transpired in the normal course of debate in the House, that is where the matter could be raised as a matter of privilege.

I admit I have not researched this thoroughly but a brief reading of the standing orders indicates that you must go to where the incident, the alleged point of privilege, occurred and raise the matter there at the first opportunity. If it occurred in committee, the Speaker has no jurisdiction over that; it is the chairman of the committee who must rule on that.

Mr. Ruston: Unless, of course, the committee refers it to the House.

In the case of what I am saying, and you have just mentioned it, the minister was under oath and I am not sure whether we, as a committee, should not refer this to the House, but I am not sure what road it then takes.

I think we are all aware of what he said, it is right in there; and I think we are all aware of what is going on in the permits, there is certainly a discrepancy, I will agree with you completely. But the real discrepancy is what some of the inspectors are telling the people in the social clubs. They really do not know where they are at.

I know one of the inspectors told one of the social clubs, "Go ahead and charge \$1 for liquor and 65 cents for beer and we will assume you are serving an ounce and a quarter." It is as mixed up as that. I know there are discrepancies.

Mr. Chairman: If I could, I would beg the indulgence of the committee and make a suggestion to you, that what might be appropriate here is that I would do what is provided in the standing orders, which is not to make any ruling on the matter now.

I will stand the matter down, discuss it with the Speaker, and seek his guidance as to whether or not this matter should be either dealt with totally in committee or put to the Speaker for a ruling in the House. Depending upon his guidance, I will then

either raise the matter and ask the Speaker to make a ruling, or bring it back to the committee. In that case it would be my judgement the first step should be to ensure the minister was invited to be present at the committee, because it is a point of privilege and both sides have a right to be heard.

I am going to make the distinction that Mr. Davidson has raised a point of privilege quite properly in the committee, that the point of privilege and the testimony which was provided by the minister to the committee is properly within our jurisdiction. If we want to deal with the matter of the policies of the LLBO we may do so, but it will be taken as a separate item and that matter may be dealt with subsequently.

It is an agency which is properly within the domain of the committee and we are entitled to do a review of that agency. But I would like to make that fine line distinction, that we will deal with the procedural point first and then, subsequently, if the committee desires, we will be able to call before the committee representatives of the liquor licensing board and the minister and deal with the issue per se.

If that is agreeable to the committee that is the way I would proceed. Are there any objections?

Mr. Rowe: The big problem is the definition of a fund-raising event. We have the local tennis club down there. Are they a fund-raising event? No, and they should not be, according to the rules which have always been there, but maybe not enforced. But they were still for charging the 80 cents an ounce and so on. It is confusing.

Some of those are worthwhile organizations in the community but they are not raising funds for children or anything like that. According to the minister, it is very clear to him, but it is not clear to me, I must say. But it's our definition and your definition of a fund-raising event; that's where the problem is.

Mr. Chairman: I think it is reasonable to say there seems to be a rather substantial difference between the testimony provided by the minister and the practice of the LLBO. We will have to get to that matter on another day at another time. I would suggest that if we do, we would want to call in, as we did with the other agencies, representatives from the agency itself and perhaps those community groups who are having difficulty with it; and deal with that as a separate issue.

But the point that I will raise with the Speaker and perhaps put to the House or bring back here is the procedural point which Mr. Davidson has raised.

Mr. Rowe: What procedural point?

Mr. Chairman: That the minister before the committee and under oath did not provide accurate information.

Mr. Rowe: It is a matter of opinion, I guess, as to the interpretation of fund-raising events.

Mr. Chairman: Okay; that's the second matter.

The third matter I wanted to raise with you this morning is that I did send some correspondence to the members' services committee chairman to point out that we had some considerations about the matter of researchers and the research facility in the library and how that is being used; also the matter of television coverage in the House; and at some time we may appreciate having a joint meeting with the members' services committee.

That has not been scheduled yet, I have not received any correspondence back from that chairman.

Those three matters are now on the agenda of the committee. Are there other matters which members would wish to raise?

Mr. Ruston: Yes, there is a matter and I do not know if it has to be dealt with; it may take care of itself.

The problem I am having is about the member for High Park-Swansea (Mr. Ziemba) being in the House. I forgot to check, although I had intended to, whether the Speaker recognizes his vote or not. He said he would not recognize him for speaking purposes but I understand he is recognized as a vote.

I just do not understand how a person can be allowed to vote in the Legislature and not be allowed to speak. A decision made earlier, which was supported by a majority of the House, must stand, and I accept that, but I just do not think there has ever been a case where a member was allowed to take a seat and vote and not be allowed to speak in the House.

Mr. Chairman: If I could offer an opinion, probably an uninformed opinion, the distinction that is being made is that the Speaker is not prepared to recognize the member for High Park-Swansea for purposes of speaking. I think you have raised an interesting point, in that the Speaker is allowing the member to be recognized for voting purposes. The votes are recorded and the table officers are then, in effect, recognizing the member.

It is an interesting point; I would put this caution on it. I am not sure that this committee has jurisdiction to question the ruling of the Speaker which has been supported by the assembly. However, I think the way you have raised it provides a slightly different perspective on it and it may well be that when we look at the actual ruling of the Speaker, he was silent on the matter and he may be prepared to let the committee raise it.

But I think the caution I would put to you is that I would want to have some consultation with the Speaker prior to accepting that as a matter which we could put on our agenda. In other words, I frankly do not want us to go through a long rigmarole about this, then walk back in there with a report where the Speaker is not going to recognize me.

Mr. Ruston: I do not either and I realize that. I am no expert on procedural affairs in Parliament and I think we can drop

it at that, but I just want to mention that I think it is very strange.

Mr. Chairman: I think you have raised a point which, in my reading of the Speaker's ruling, was not carefully explained. I would certainly be happy to meet with the Speaker and to seek his opinion on it. If he feels it is within the jurisdiction of the procedural affairs committee I would be pleased to put that on the agenda. If, however, he tells me that we should get lost, I will accept the direction of the Speaker.

Are there any other matters which members wish to put on the agenda?

The remainder of today's session then will be on the review of agencies, draft report. In our previous meeting on this we did not require Hansard. Is it your desire to maintain that position?

Okay. Hansard staff may have themselves a rest for the remainder of the morning. Members of the committee will have draft report copies now.

The committee continued in camera at 10:29 a.m.

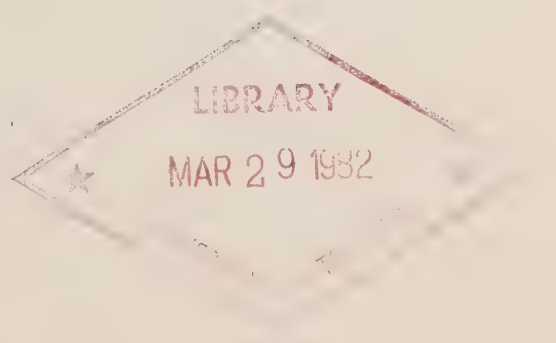
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STANDING COMMITTEE ON PROCEDURAL AFFAIRS

ABC REVIEW

THURSDAY, NOVEMBER 13, 1980



STANDING COMMITTEE ON PROCEDURAL AFFAIRS

CHAIRMAN: Breaugh, M. (Oshawa NDP)
VICE-CHAIRMAN: Davidson, M. (Cambridge NDP)
Charlton, B. (Hamilton Mountain NDP)
Mancini, R. (Essex South L)
Rotenberg, D. (Wilson Heights PC)
Rowe, R.D. (Northumberland PC)
Ruston, R.F. (Essex North L)
Sterling, N.W. (Carleton-Grenville PC)

Research Officer: Eichmanis, J.
Clerk: White, G.

LEGISLATURE OF ONTARIO

STANDING COMMITTEE ON PROCEDURAL AFFAIRS

THURSDAY, NOVEMBER 13, 1980

The committee met at 10:11 a.m. in room 151.

ABC REVIEW

(continued)

Mr. Chairman: I see a quorum. What you have today is the polished-up draft report you saw two weeks ago. There are some changes in it.

I am going to ask John to take us through the changes in it, and when we have done that, I will entertain a motion for the adoption of the report. If anyone is prepared to move amendments to it, we will entertain those at that time as well.

John, will you take us through the changes that have been made?

Mr. Eichmanis: At the bottom of page five--I am sorry that the numbering is not too clear--in response to Mr. Mancini's comments, I have included a sentence dealing with the situation in the city of Windsor, which reads: "The committee was also concerned that the large population centred in and around the city of Windsor has difficulty receiving a clear broadcast signal from the transmitter in that locality, and felt that the individual taxpayers in that area deserved better service." It kind of sets up the second half of recommendation number three.

On page 10, I have changed the recommendation around a little bit to include the second half, which is to the effect that once a study is made by the lottery corporation as to whether their aggressive marketing policy is in the public interest, that study should be tabled in the Legislature.

Then I have gone on to deal with the question of proliferation of lotteries. The recommendation there, as the committee wanted, is that there be a moratorium on the proliferation of lottery games.

Mr. Chairman: Is the committee happy with that? Do you want to phrase something to the effect that, "until such time as this review is tabled in the Legislature," or do you want to leave it as it is? I think the inference is that you put a moratorium on the proliferation of games until you have reviewed the whole thing, and then you make some decisions about whether you really want more games or fewer games.

I take it your silence means you are satisfied with the way it is now drafted it. Go ahead, John.

Mr. Eichmanis: On the following page 11, after recommendation seven, a paragraph has been included to deal with

the whole question of the guidelines with respect to the allocation of the Provincial funds. It indicates that there may be some problem with the guidelines, which follow, and that these guidelines should, as put in recommendation eight, be made public.

Mr. Mancini: Did we ever get that information requested concerning the distributors?

Mr. Eichmanis: They have promised to get it to me and they have not as yet.

Mr. Mancini: Is there anything we can do about that, Mr. Chairman?

Mr. Chairman: They agreed to do that little study, I guess it was about three weeks ago now. Aside from calling them again, I don't know what I could do. Did you have something specific in mind? If they have agreed to do it, that takes the heat out of any argument.

Mr. Mancini: I think we should have it before the matter is tabled in the House.

Mr. Chairman: You may well have it. I am not aware there is any unnecessary delay.

Mr. Mancini: We would be embarrassed if we tabled this recommendation and the guys submit a report that they are working 100 hours a week, that they are doing this and they are doing that, almost like the president of General Motors.

We are making a recommendation on that particular matter. They promised us, almost from the time that they appeared before the committee, that they would have this information for us. It seemed like only routine information.

Mr. Chairman: I do not understand the delay.

Mr. Eichmanis: They told me a couple of days ago that they would have it in the mail that day and I am still waiting for it. I do not know whether that is because of the couriers or whatever mail system they have. But they said it was going to go in the mail and I am still waiting for it.

Mr. Ruston: Let's give them until Monday or Tuesday.

Mr. Mancini: What happens when D-day comes?

Mr. Chairman: Who called for D-day? I think the timing is such that you will likely have that response in your hands next week.

Mr. Mancini: What we want to know is what the person does for a living, if he has a full time office.

Mr. Chairman: I think you are right. I would like to have that information in my hands before we actually table the report in the House. I do not suspect, because of the wording of

the recommendation, that we would change it, but just for my own peace of mind I would like to have that received by the committee before we proceed. We will endeavour to do that.

Mr. Eichmanis: I take it that, in relation to recommendation eight, that stands as it is, without any alterations?

Mr. Chairman: Yes.

Mr. Eichmanis: I am not dealing here with the minor kind of operations like the council of health, and I think I had something else in there. I am only dealing with the major changes, not with the little cosmetic things.

On page 17, the second paragraph deals with the specifics of the Ophthalmic Dispensers Act and the problems with the specific sections of the act. The committee requested that I clarify those specific sections or find out what the problems with those specific questions are.

The paragraph which starts at the bottom of the page raises the question of the conflict of interest and points out that there is a serious conflict of interest with the board and some other agencies. It indicates that the committee would like serious consideration given to the whole question of conflict of interest legislation for agencies, boards and commissions. It mentions that later on in the report there will be a specific recommendation.

Then there is the recommendation dealing with the Ontario Labour Relations Board on page 21, I think it is, that the board create simplified forms in French and English and in other languages.

On page 24, recommendation 14, there has been an addition there; namely, that the rationale for the division between commercial and noncommercial enterprises of the Ontario Northland be made public.

Recommendation 16 was altered slightly, but I think it continues the same as before.

10:20 a.m.

On page 28, Liquor Control Board of Ontario, the paragraph after recommendation 17, reads: "Finally the committee would like to draw attention to the fact that some misunderstanding exists as to the precise nature of the liquor control board's function within the government's scheme of priorities. It is becoming clear that over the years the board's main function has become less a matter of controlling liquor consumption in Ontario or even the provision of a specialized product and more the generation of revenue for government purposes. Thus, while formally the board is within the purview of the Minister of Consumer and Commercial Relations, it is in fact the Treasurer who determines the pricing policy for the board, and the Treasurer by the use of his markup policies has introduced a form of taxation on the sale of liquor."

"With these considerations in mind, the committee believes that the government should make explicit the board's primary function--revenue generation--and in the process assign to the Minister of Revenue responsibility for the board. If, as the committee believes, the markup policies of the Treasurer constitute a form of taxation, the public has a right to know on what basis and on what calculations the Treasurer establishes his markup policies.

"It is, therefore, recommended:

"18. That the Liquor Control Board be transferred to the responsibility of the Minister of Revenue and that the Treasurer table in the Legislature the criteria and the calculations which he uses to establish his markups on the sale of liquor in Ontario."

Mr. Chairman: Next.

Mr. Eichmanis: Then there are the general recommendations on page 31. These deal with the matter of opening up the selection process for membership on boards, agencies and commissions. Perhaps I should read it.

"Another matter to which the committee has given consideration is the manner by which appointments to agencies, boards and commissions are made. It is customary, in most instances, that such appointments are made by order in council, that is, by the cabinet. While the appointments are made public once the decision has been made, the selection process is confidential and largely hidden from public view.

"Under the existing procedures and practices, the government is the sole arbiter of deciding whether any given appointment is in the public interest. Given our responsible form of government, the cabinet must accept responsibility for the choices it makes. The committee fully accepts this principle. However, the committee is of the strong opinion that the selection process could be improved. Its recommendations, it believes, would strengthen the principle of cabinet responsibility and would enhance openness and democratic accountability.

"The committee recommends that the selection process be made more open and competitive, to allow all segments of the Ontario public the opportunity of applying for membership to the various Ontario agencies, boards and commissions.

"It is recommended:

"19. That openings for membership to the boards of Ontario agencies, boards and commissions be advertised in the Ontario Gazette.

"Believing that cabinet should have the responsibility for making the final selection of appointments, the committee recommends:

"20. That Management Board of Cabinet be made responsible

for processing the applications before sending to cabinet on the basis of established criteria.

"To ensure that a measure of equity is part of the selection process, the committee believes that management board should keep annual statistics on appointments. Such statistics would indicate the number of total applications, regional breakdowns, et cetera, and would also contain statistics that would show the following: number of applicants nominated by government members; number of applicants nominated by opposition members; number of applicants nominated by board members; number of applicants un-nominated; number of applicants nominated by interest groups.

"These statistics would be matched with those that would show the successful applicants in each category.

"It is recommended:

"21. That Management Board of Cabinet keep statistics on the selection process and that these be tabled in the Legislature annually."

Mr. Chairman: The remainder is the response to the 1979 report. Do you want to go through that, John?

Mr. Eichmanis: Yes. We received two letters. One was from the Ministry of Industry and Tourism relating to the recommendations on the Ontario Research Foundation. There is one problem with recommendation number three, which is on page 36, "That the Ontario Research Foundation cease paying Ontario retail sales tax."

I have indicated here that, "This recommendation by the committee has been deemed unnecessary since last year's review."

As I understand it, the thrust of the recommendation from last year was to find some mechanism by which the foundation could get more money for its operations. As indicated at the bottom of page 36, the ministry has increased the grants, so I think their financial position is far more secure. So the exemption from the sales tax, from that point of view, no longer really applies.

On the other hand, there appears to be some kind of a legal problem involved here. Under the act, as I understand it, the foundation is exempt from all taxation. Section 15 specifically states that the foundation does not have to pay any kind of tax.

However, I also understand the Retail Sales Tax Act does not make that kind of exception, so we have here a conflict between one piece of legislation and another piece of legislation. I have talked to the people at the Ministry of Revenue who were interested in this problem and they now are going to delve into it to see what they can do to clarify the situation.

Mr. Chairman: It would strike me, that being the case, it is not necessary to put a recommendation in there at all.

Mr. Eichmanis: That is more or less what I said.

Mr. Chairman: This recommendation number three was from the 1979 report.

Mr. Mancini: So we recommend that there be no recommendation on last year's recommendation.

Mr. Chairman: We will just point out that the problem has been solved.

Mr. Eichmanis: As far as the other recommendations are concerned, I have gone back to the debate in the House on the second report and I have tried to summarize the ministry's response to those recommendations in each case; dealing with the Ontario Housing Corporation, the Ontario Food Terminal Act and the Ontario Municipal Board. In most instances the response by the minister did not deal with the specific recommendation. The Telephone Act, also.

For example, the Minister of Housing did not deal with recommendations eight or nine. The Minister of Agriculture and Food did not deal with recommendations 10, 11, 12, 13 and 14 in any specific kind of way.

Mr. Chairman: There is not very much we can do about that; it is simply an update of what we did last year and what the response was.

Could I have a motion now to adopt the report? Then the procedure after that would be we would be prepared to accept any amendments or alterations that you care to pose.

Mr. Charlton moves that the report be adopted.

Motion agreed to.

Mr. Chairman: We will proceed to draft the motion to put the report to the House. I would hope that we would have the report from the Ontario Lottery Corporation prior to placing the report in the House. I do not think it is necessary to have a motion in that regard. The timing that I would see possible is that we would most likely not put this report to the House before Tuesday of next week?

Clerk of the Committee: Thursday.

Mr. Chairman: Thursday? I see. So we have a week and a half or so.

The only other matter which I have on the agenda this morning is that, as you know, we requested a meeting with the members' services committee and I have some correspondence here from Margaret Campbell who chairs that committee. They are in agreement we do that and it has been proposed that it be next Thursday morning.

Are the members here in agreement with that? You will recall we wanted to talk about televising proceedings and things of that

nature. Are there other matters which you wish to put on the agenda for that meeting?

10:30 a.m.

We had television coverage of proceedings in the House. We discussed research facilities, that was also before us. We have, too, a letter from Mr. Land, the director of research, just adding some further information. There are two letters, both on research facilities to committees.

Mrs. Campbell has also written regarding some concerns raised by Mr. Watson about the costs for private bills. Mr. Watson went on to document the cost that was accrued to Bill Pr2, An Act to revive Christian Reformed Church of Wallaceburg. The total was \$150 paid down and a balance of \$564.17. You may recall, I believe last year, there was a slight change so that the cost of printing the private bills was borne by those who applied for the private bill.

Mr. Watson is pointing out that in some instances that poses a bit of a hardship on them, but it was felt at that time a fair way of doing the private bills would be simply to have the cost of printing the bills put towards the applicant. Previously they had paid a flat rate of--

Clerk of the Committee: One hundred and fifty dollars.

Mr. Chairman: All right. So that matter might also be raised at that time.

Does anyone have any further items they would like put on that agenda? Any further business? The committee stands adjourned until next Thursday at 10 a.m.

The committee adjourned at 10:32 a.m.

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JOINT MEETING OF THE STANDING COMMITTEE ON
PROCEDURAL AFFAIRS AND THE STANDING COMMITTEE ON
MEMBERS' SERVICES

ELECTRONIC HANSARD

THURSDAY, NOVEMBER 20, 1980

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STANDING COMMITTEE ON PROCEDURAL AFFAIRS

CHAIRMAN: Breaugh, M. (Oshawa NDP)
VICE-CHAIRMAN: Davidson, M. (Cambridge NDP)
Charlton, B. (Hamilton Mountain NDP)
Mancini, R. (Essex South L)
Rotenberg, D. (Wilson Heights PC)
Rowe, R.D. (Northumberland PC)
Ruston, R.F. (Essex North L)
Sterling, N.W. (Carleton-Grenville PC)

Research Officer: Eichmanis, J.
Clerk: White, G.

STANDING COMMITTEE ON MEMBERS' SERVICES

CHAIRMAN: Campbell, M. (St. George L)
VICE-CHAIRMAN: Newman, B. (Windsor-Walkerville L)
Bryden, M. (Beaches-Woodbine NDP)
Jones, T. (Mississauga North PC)
Smith, G.E. (Simcoe East PC)
Watson, A.N. (Chatham-Kent PC)
Worton, H. (Wellington South L)
Young, F. (Yorkview NDP)

Substitution:
Johnston, R.F. (Scarborough West NDP) for Mr. Young

Clerk: Arnott, D.

LEGISLATURE OF ONTARIO

STANDING COMMITTEE ON PROCEDURAL AFFAIRS
and
STANDING COMMITTEE ON MEMBERS' SERVICES

THURSDAY, NOVEMBER 20, 1980

The committees met at 10:19 a.m. in room 151.

PROCEDURAL AFFAIRS COMMITTEE REPORT

Mr. Chairman: The chairman sees a quorum. We have two people in the chair today, and the Speaker will visit, so I expect some decorum in here today.

Mrs. Campbell: Why?

Mr. Chairman: Just for the hell of it.

Could I raise one matter with the procedural affairs committee before we go into our joint meeting? Mr. Sterling has indicated that he would like to put a dissent--

Mr Sterling: May like.

Mr. Chairman: May like to put a dissent to the report on agencies. The difficulty with that is it means we have to withhold the sending of the report to the printer, which fouls up the timing of having that report printed and returned to the members in time for debate on it by the end of this session.

10:20 a.m.

Mr. Sterling was not present at the meeting in which the report was adopted by the committee. It is normally held that members may attach a dissenting opinion to a report. It does not change the status of the report, but on other occasions, in other committee reports, members have been offered this opportunity.

My only difficulty is that it may well mean that the report does not get printed and debated this session. I am seeking a little direction from my own committee members on that.

Mr. Mancini: What particular concern does Mr. Sterling have?

Mr. Chairman: I am not aware of the precise nature of his concern, or whether he will in fact want to put in a dissenting opinion.

Mr. Mancini: I don't know if I can help you here or not, but I think the committee as a whole has made a decision on the report. We went over the rough draft twice, as I recall. The first time we made substantial changes to the wording. I think we should just move ahead with the report and get it printed. Surely if members want to make some kind of submission with regard to a

report they should be at the meetings in order to do so.

Mr. Chairman: Any further comments from anybody?

Mr. M. Davidson: I agree with what Mr. Mancini has said. The draft report was reviewed on two occasions by this committee. I believe Mr. Sterling was present the first time we went over the draft. I think some of the suggestions for change within the report itself were made by Mr. Sterling, and I think those changes have been made.

It is unfortunate he could not be here for the second meeting, but we did, as a committee, review that second draft and pass it. I think it should go ahead.

Mr. Chairman: I will take that as direction from the committee. No motions are necessary. The motion to adopt a report was made in committee and was voted on. Everyone had an opportunity to see the drafts and to be present. If members choose not to attend committee meetings, there is very little the chair can do. I now direct the staff to send that report to the printers.

ELECTRONIC HANSARD

Mr. Chairman: We have reached the stage where we can consider the matter which is to be reviewed by a joint meeting of our two committees. You have a mound of paper in front of you today, most of which you have, at one time or another, had the opportunity of seeing. We thought it would be important that recommendations from the Camp commission, which were made more than five years ago, be put in front of you so that you can have a look at them.

There may be some reports which you have not seen recently, but I believe most of the material you have, with the exception of two, are matters which you are at least aware of and have seen at one time or another.

Basically the problem we are trying to resolve in simple form is that the Legislature at one time agreed with a recommendation in the Camp report for televising the proceedings here. There was an ad hoc committee, chaired by Mr. Speaker, which went through the mechanics of it.

There is a mound of paper here documenting how those television proceedings ought to occur. There are some cost estimates which, unfortunately, are now a bit dated. I am aware that the members' services committee has dealt with the matter of television coverage in the past. Procedural affairs has been interested in this and has had some matters on its agenda related to the televising of the proceedings, all of this happening in a very cautious manner.

It would now appear that if it is to be resurrected, and if the wish of the House is to carry on with the television coverage of the proceedings of the House, somewhere, sometime, someone must pass some motions. In other words, the system is thoroughly constipated at this stage and there is a need for someone to

provide the laxative which will clear up the matter.

In order to expedite that matter, we have attempted to put in front of you all of the documentation which anybody around this place has about television coverage. We have attempted to do a brief summary on that. If we may be so bold, we have also put in front of you this morning a recommendation which may stir the system a little bit.

Basically, it is at that point where people have to make some decisions. We can, if you choose, again go through the whole system of trying to get cost estimates, deciding whether there should be five cameras or three cameras, whether they should be Hitachis' or General Electric cameras, whether the rug should be blue instead of red, how many lights we ought to put in and so on--

Mrs. Campbell: Heaven forbid.

Mr. Chairman: --which would take us another 10 or 12 years; or we can make a decision that these two committees support the concept of an electronic Hansard and make a recommendation, roughly like the one which is in front of you; namely: "That we now take steps to introduce permanent coverage of the proceedings of the Legislature by television and radio, and that the control of or responsibility for such coverage be under the authority of the Speaker."

The passing of that motion, which although simple is an expression that these two committees of the Legislature agree with the keeping of an electronic Hansard, would then clear the way for the Speaker to include in the next fiscal year amounts to provide for such service. It would clear the way for staff in the Speaker's office to make some critical decisions about the type of equipment which would be used, the kind of staff which would be kept. It simply says: "Do it. Cost it out, put it in a budget and begin the process." Essentially what we are trying to get this morning is some opinion expressed by two committees of the Legislature whether or not this should proceed.

I am aware that subsequently there are going to be myriad problems, but they are probably best handled by people who have some knowledge of the equipment which would be used. We have a model which it is possible to use in the federal House. At least two other Legislatures that I have visited, Quebec and Alberta, have television coverage which is somewhat differently than ours, although actually Alberta's may be closer to ours.

For what it is worth, the visits which I and other members of the committee have made seem to indicate that the going consensus is that if you are going to provide television coverage in any form, at some point you will go to a full electronic Hansard system, much as they have in the federal House. You can diddle and doddle along the way, but sooner or later that is where you wind up.

If you look at the cost estimates contained in the documents before you this morning, you will see that if we had done this in 1977 it would probably have cost somewhere around half as much as

it would cost in 1980. I think it is reasonable to project that if we manage to take another four years to come to that same conclusion, it is going to cost twice as much again. All of the cost factors involved--and they are complicated and many, it is not a cheap service that is being talked about here-- tend to keep escalating substantially.

What the procedural affairs committee would like to do, and with the concurrence of the members' services committee will do, is to put this motion to these two committees this morning and see what happens to it.

That is about all I have to say. Mrs. Campbell, do you have any remarks you want to put out?

Mrs. Campbell: I think the only remark I can make at this point is to indicate to you that members' services is struggling along with this building itself--what is going to be done with it, what remodelling and the rest of it will have to take place in order to let the members have a proper facility.

I was recalling that we had looked at the costs of refurbishing this room, and at that time, I think quite appropriately, the Ministry of Government Services took the opportunity to go from top to bottom in this particular area to refurbish, putting in air-conditioning and these other things.

I would like to understand, if we did proceed with this kind of an arrangement in the House, whether it impinges on any of the other things that have to be done. We have heard about the refurbishing of the assembly. I want a little more from that point of view, because I do not think the costs, even at an escalated figure, can be looked at in isolation from the other matters that we are looking at in this building.

That is just a caution. Members' services members can certainly speak on it as they see fit.

10:30 a.m.

Mr. Worton: Mr. Chairman, did I understand from your explanation that if we go the full route of televising our House proceedings, eventually this will do away with the type of Hansard reporting we have now?

Mr. Chairman: No; maybe I should try to clarify the situation more precisely.

The motion we are putting to you this morning is rather a simple one, and I think we need to do it in this form. It simply says we approve of the concept of an electronic Hansard. Subsequent to that, it will be subject to all the fiscal considerations Mrs. Campbell put in place. It would be included in the budget for the assembly; it would go through all of that sorting process about priorities and when and how. The electronic Hansard in the federal House, of course, has not supplanted the printed Hansard. The argument on that, as I understand it, is basically they supply a different need and they are used in

different ways. The electronic Hansard provides instant information across the country to all kinds of people. The printed Hansard still serves its special role and is still kept as the official record of the House.

I would take it that if you went into an electronic Hansard here the printed Hansard would remain as it now is because it serves a very valuable purpose in a number of other ways.

Mr. Worton: Your reference to Alberta got me confused on it.

Mr. Chairman: In the Alberta Legislature--this is where it is difficult; when you get into the business of how much this is going to cost, it can cost anywhere from \$4 million to zero, depending on how you choose to do it.

In the Alberta Legislature, a local cable company supplies the service so the cost to the Alberta Legislature is pretty minimal. In Quebec, they lease the equipment so they are able to take advantage of changing technology every two years as the lease is renewed. The federal House has opted to buy the equipment, to purchase equipment outright, to run it with their own staff and to run a distribution system. So there are all kinds of variations; and at one time or another we have looked at most aspects of that here.

We are just saying make a decision as to whether or not you want an electronic Hansard. If we affirm that we do the normal costing procedures, the normal establishing of priorities and putting all of that into the budget of the office of the assembly, all of that will subsequently occur.

However, there does appear to be a severe logjam now. I think it is true to say the House has never really definitively said what it wants. If we could get that to happen, all of these other mechanisms about financing and priorities would all fall into line.

Mr. Worton: Will it not in the end be up to us, as members, to go back to get the views of our caucus? The matter has been discussed from time to time over the years, but in effect to come back here and make a final decision we have to have the support of our caucus.

Mr. Chairman: Okay. The process we are recommending is that there be a joint motion put to the House, a joint report. That would be the time at which all members of the assembly would have the opportunity, as the members on these two committees will have this morning, to say yes or no.

Mrs. Campbell: Mr. Chairman, I was addressing my remarks to the immediacy of the motion, not to the principle.

Mr. Chairman: Are there any other members who want to make any comments about it?

Mr. Watson: Mr. Chairman, I am rather concerned. In your

opening comments you said we should not be concerned about the money. Every three or four years it is going to get twice as expensive. I think there is a limit to what we should spend in terms of the benefits we are going to get out of it, or benefits the people of Ontario are going to get out of it and how much it is going to be used. Accommodation was made a few years ago for the TV news section. I think that is what the majority of--and I am sure there are people from all sides of the House who object to the specific things which are put on the air, your judgement of what is used is not exactly the same as the other guy's judgement, but that is part of being in politics.

However, I do not see that this is going to change that very much. I have no personal problems with being on television, but I just wonder whether the costs of installing and operating are going to be worth the benefits.

Mr. Chairman: If I may just intervene for a second, because I think we should be clear about that.

I am not suggesting for a moment that we ignore all the cost factors or all the priorities. I am simply trying to get the members to put their minds to whether they want the electronic Hansard or not. If you make the decision that you want it, then it becomes subject to all the fiscal considerations the government wants to give it and all the arguments that any member in the assembly wants to put about whether it is a good thing or a bad thing. We have not been able to get people to focus their attention on that one single aspect of it.

Do you or don't you think it is a good idea? If you do think it is a good idea and you support the recommendation in front of you, then that idea becomes subject to all the scrutiny about costing, priorities, whether or not it is worth the money, whether it is a good or bad idea. In five years we have been unable to get that one simple decision made and this is just an attempt to do that.

If you say no this morning, then we just put this back to the Speaker's ad hoc committee and it will rot on the shelf with all the other things that are rotting on shelves around here.

If you say it is a good idea and you support the recommendation in front of you all these other arguments, restraints and priorities, how you do it and when you do it, all that kicks into place.

Mr. Watson: Mr. Chairman, you may think that, but that is not the way I see it happening. If we approve this then it becomes a fact that it should be done. Unfortunately, some people will interpret that as it shall be done at all costs. I do not think it is that simple.

Mr. Chairman: I would remind you, Mr. Watson, that the members of my committee and your committee do not have the authority to institute expenditures of money. That is why you do not see the cost estimates or options here. We cannot spend money. We can recommend to the House that consideration be given to a

concept, which is precisely what we are doing. If the House accepts that, the government then decides spending priorities and will introduce estimates which contain these amounts of money to provide for this service.

It is not going to happen next week. Most of us have been around here for a while and we understand that committees can say whatever they want, but it often takes a little while for the government to get around to doing it.

Mr. Worton: Mr. Chairman, from my viewpoint I would prefer to see what we have in action now, such as the question period, improved. At one time everything that took place took place in the Legislature. Now, except for an hour a day, the rest of the business is carried on in committee. Therefore, I think the public should be informed as best they can be, by whatever means. I have a feeling the involvement and the good the people are going to get out of the legislative part of it is very minimal.

I would certainly feel the question period, whether it be in Ottawa or Toronto, is something to which the public does pay attention and take an interest in. However, to televise the total proceedings of the Legislature and put ourselves in a position where members slip around to sit beside another member to make the House look full, which has happened in debates, is wrong. Twenty years ago, when everything was done in the Legislature, it would have been ideal. Now we shift out after question period to go to various committees, where just as important business goes on as goes on in the House.

I would be in favour of improving television as we have it now, doing that on a more adequate basis.

Ms. Bryden: Mr. Chairman, I think this is a very important decision we are considering this morning. We do have an example in Ottawa of what has happened when television has been introduced into the House of Commons. We have found there was a tremendous response from the public and a tremendous increase in public observance of the workings of the House of Commons. Members there have found that they are now real people to the electorate; they are a face and a personality and not just a name. It is very valuable that the public do see their legislators as people with strengths and weaknesses and can judge for themselves.

10:40 a.m.

In the past the picture of what went on in the House of Commons and in Legislatures has been filtered through many people. Everybody has his own selectivity in what he chooses to present to the people, whereas with the electronic Hansard the public has the opportunity to see what is actually taking place. I really feel that it is part of the democratic process in an electronic age to have televised proceedings of the Legislature. It brings the Legislature to the people.

In addition, it enables the Legislature to be directly accountable to the people rather than through the reports the public receive. I know the public could read Hansard and find out

exactly what was said. We know that not very many of them do; and, also, you still do not get the same ability to judge the performance and the strength of the arguments put forward if you do not have the complete picture of the presentation and the play back and forth across the floor of the House.

It also eliminates, largely, what has come to be known as the scrum, where, in effect, people who have made newsworthy statements or questions get a second chance to restate their position without the possibility of being challenged in the House. They may be challenged by the media, but it is a completely different form of reporting, which has grown up around the proceedings during question period in particular. While I certainly believe the press will continue to interview members who have asked questions or spoken, the provision of an electronic Hansard gives another opportunity for the public to know what went on besides what is reported after the event out in the hall.

On the question of cost, I realize it can be very expensive, but we have to consider it would be a long-term investment. It is really equivalent to building a chamber, which was done by our forefathers, or building a new part of the chamber. There may be problems, as the chairman of the members' services committee mentioned: for example, if the House is to be refurbished or new seats are to be added, how does this fit in with adding television?

However, the members' services committee, or some of us on it, felt that the question of adding new seats after the 1981 census is still quite a long way down the road, because the census does not report for about a year and then you would have to have, probably, a committee to redistribute seats if there were substantial changes in population. We know from experience that process takes a couple of years, so the addition of seats would probably be at least five or more years down the road. By that time we would probably want to make some changes in the electronic system to update for technological changes anyway. So we could proceed with the installation, if it was decided that is desirable, without worrying about possible new seats in the assembly.

As far as refurbishing goes, making the assembly presentable and updated is an ongoing process, but I cannot see that there would be great costs that would either have to be speeded up in that area or added to, except for the installation of the electronic equipment, the proper cameras and the proper lighting. The lighting is the important addition.

Mr. Chairman, for those reasons I feel we should adopt this proposal to endorse the principle and leave control and responsibility under the authority of the Speaker, who would then proceed to obtain estimates, bring them before the Legislature and find out the best methods of doing it.

Mr. Rowe: Harry Worton put in some very good words of wisdom. Much of the activity of the House does take place outside and is not going to be on full electronic Hansard, I would think, for quite a while. It would be quite impractical to do so.

I am not so sure of the size of the listening public. We, as

legislators, are interested. At night, I watch the Ottawa proceedings maybe once every six weeks or something like that, for a few minutes, but I am not sure how engrossed the general public is.

An electronic Hansard might improve the behaviour of some people if it were in, or it might not. Some are great play actors too.

Mr. Mancini: Speak for yourself, Russ.

Mr. Rowe: I'm very modest, you know that.

I wonder about something else, and I presume this might have been discussed before I came in: I know there is improving technology as far as the type of equipment goes, but when we considered it before I was told at the time it would be quite a few years before it would change very much. I presume you know that at the moment the networks--CBC, CTV, Global and so on--put it on film. For that they need 8,000 candle-power. A live electronic Hansard takes 48,000 candle-power of lights.

You will notice that on the opening day of the Legislature, when the Lieutenant Governor is here, the TV coverage is live. It is a different process completely. I have seen people, even with the arrangement we now have during question period, wearing coloured glasses, although it does not seem to be quite that overbearing at the present time.

It is true there are new types of film coming out which can get along with less candle-power, but I am not sure whether they are readily available yet, whether the networks have switched to them or not. That is a technical thing which would have to be determined.

We have recently come back from Edmonton. They televise their sessions full time, but they have light-coloured walls and ceilings. The whole room seems to be much lighter and you get a lot more reflection, therefore you do not need as great an intensity of spotlights. When we went into it, we were told we would have to change the whole ceiling and put an inset or an inset--whatever the proper word is--of quite bright lights and so on.

It is worth considering, just to see how far advanced the technology is. The question would be whether our members, who were complaining before about the 8,000 candle-power, would want to sit under 48,000 candle-power.

As far as I am concerned, I am not too interested. I certainly know it is not the be-all and the end-all when it comes to sitting around in a place where you are on television all day. As Harry mentioned, much of the activity in this institution takes place outside, so you are only going to get a fraction of it anyway. Is it worth it?

And it would be done at government expense; I think that is the only alternative to the present arrangement. Right now there

is practically no expense to it; but if we went the other route space will be needed for the machinery, among other necessary changes.

How many have been to Ottawa? We were in Ottawa and saw the operation there. Not only is there the initial expense--and I know we are not supposed to be talking too much about the expense right now--but there is also the continuing yearly operating cost.

I must say, Mr. Chairman, I cannot get enthusiastic about it.

10:50 a.m.

Mr. Chairman: Mr. Rowe has touched on a couple of things which should have a little clarification.

For example, if you go to other Legislatures where they are using measures similar to ours--that is, spot television news coverage--the technical problems of the lights, the glare, the bulk of the cameras, people moving around, are in the forefront. I am told by people in Alberta that is the basic reason they are now going to have to go to the full electronic Hansard, because you get those problems as long as you use temporary measures. You get the glare, the heat in the House, large cameras moving around. It is only when you go to the full electronic Hansard, as they have done in Ottawa, you are able to overcome those problems.

If you have ever been in the chambers in Quebec or in Ottawa, you will not notice the glare. There is not the heat, the colour scheme in the chamber--

Mrs. Campbell: No heat from the lights, that is.

Mr. Chairman: There is a lot of heat, but not heat from the lights.

You really need to do a number of things, which have been covered in the reports that are in front of you. There is no question that the equipment is now available; the latest word from Mr. Fleming is an acknowledgement of that. There have been substantive changes in the technology. The equipment is now available; it is being used in Ottawa, it is being used in Quebec.

However, as long as one stays at half-measures, as we do here and as they have been in Alberta, there are severe problems with glare, with heat, with old camera equipment being used. It is almost an all-or-none proposition. If you are going to televise the proceedings you use the best equipment available--and it is now available--and you do some work on the decor of the chamber itself, which is covered in here.

So it really is the half-measures that cause the problem. You have to utilize the new technology and be aware that the colour of the walls make considerable difference in terms of the number of lights you have to have to provide the intensity of lighting required in the chamber.

Quite frankly, in the federal chamber I do not even notice either the cameras, unless you are looking for them, or any change at all in the lights; and there is certainly no change in the temperature in the chamber. It is very unobtrusive; as opposed to here, for example, where, as Mr. Rowe points, on the occasions when they do crank up the lights you really feel the heat, you notice the glare and you see large cameras and crews working those cameras. In the federal House you have to be looking for them before you even notice they are there. So there is that technical change in the state of the art.

Mrs. Campbell: There is one other observation I would like to make. I talked to one of the television people in this place. He pointed out the reason they do not televise in committee is the cost to the television studios of providing staff here. I do not know whether this is correct, but I believe if we went to the full electronic Hansard you would still have people picking off from that coverage the stories which interest them, but it could also mean an easing of the pressures on the television studios so that they could get into committee to do their own coverage. I would like to see that happen.

I agree with Harry; we have gone a long way to adopting the American system of committee work. I think we have fallen into it rather than doing it deliberately, but it is true that the bulk of the real, meaningful work seems to be more and more coming to committee. So if they are relieved of the necessity of staffing the coverage in the House, I do not know to what extent they would still have to be caught up in taking off their stories by deadline times, but it could mean we might be able to get better coverage in committee.

Mr. Rowe: The stories would have to be available to the media from the--

Mrs. Campbell: Oh, of course.

Mr. Rowe: There is no question about that.

Right now, as you know, they are just using 10-second shots and 30-second shots to illustrate the news; just like still photographers do.

Mr. Chairman: That is the irony. In this Legislature there is now provision for six camera crews; six people upstairs shooting the same pan shot of the House that they have shot 30,000 times. I do not know what they do with all that footage, but I know they are up there every day cranking away. That does not seem to be terribly sensible to me, when one crew could get the shots that everybody wants to use and all could tap into that feed and use it as they want to or not, as they do in Ottawa.

Mr. Worton: Mr. Chairman, should we not go back to our caucuses and discuss it fully with them? My own view is to kind of creep before we walk; improve the question period coverage that we have by whatever means available. Give it full coverage, not just some important issue that attracts attention that particular day; give the full question period a trial run, when the House is full,

and see what public reaction we get.

Mrs. Campbell: Could you clarify that, because it seems to me that what you are saying is we want full electronic coverage for question period. If we are going to have it for question period the cost factor would be the same, I would think.

Mr. Worton: I think there could be equipment put there, similar to what there is now. They do it for opening day and they give it pretty wide coverage for that total period of time. Why could they not do it for the time taken by question period and see what the public reaction is? Let's feel them out. You get a lot of reaction from different people about what happens in Ottawa. Some people, when they listen to it, wonder just how democracy survives; but that is the makeup of our system and God bless it, it has held together longer than any other.

Mr. Chairman: If I could, Mr. Worton, I would just like to run through and establish our position. This matter has been discussed around this place for a decade; we have had a royal commission on it, we have had a committee of the House, we have had the Speaker's ad hoc committee discuss it, we have had two major debates in the Legislature where the Legislature has put a position. I am not sure whether we are creeping or stumbling here, but we certainly have talked this one around the block a few times.

What we are trying to do this morning is put a focus on it; get a nice, simple, clear statement of intent out of two committees and put that recommendation to the House and let members there vote on it again. I am prepared to say they can talk for another 10 years if they really want to, but I do not think that is necessary. I think we do need to get a focus on the thing and get it clarified.

Mrs. Campbell: Could I ask a question? Was the Morrow committee report not adopted by the House?

Mr. Chairman: Yes.

Mrs. Campbell: The Morrow committee approved the principle. It did understand that there would have to be a temporary measure first, but the assumption of that committee was to go to the full electronic Hansard. That has been passed, I think unanimously, in the House. I am not sure of that, but that report certainly was approved by the House.

Mr. B. Newman: There were many other things in the Morrow committee report that were approved by the House and have not been implemented.

Mrs. Campbell: That is the fate of reports.

Mr. B. Newman: I would prefer to have this discussed by each of our caucuses; then we could come back here with a caucus position instead of committing members of the caucus who may not see eye to eye with us.

Mr. Chairman: If I could, I would like to try to get

this clear. I am very much in favour of you having the opportunity to go back to your caucuses, but what I want people to have the opportunity to do is have every member who is here go back to their caucus and say, "Here is what we want you to talk about." I do not think we need another royal commission or another select committee or another 10 years of debate about whether this is a good thing, a bad thing, whether we like the cameras or do not like them.

I am simply trying to get us to focus on whether we do or we do not want an electronic Hansard. Let's keep it nice and simple, so that when you go to the caucus you can say, "This is what you are going to be asked to debate, and you are going to be asked to say yes or no."

You can go into 1,000 reasons why and 1,001 why not, and vote that way if you want. I am simply trying to get a focus on it so that out of this joint report will come something that you can take to your caucus. Explain all the ins and outs, if you wish; have them all read all of the papers we have gathered up, as I am sure they will; I am just trying to get it to the point where people are asked to make a decision in terms which they can understand, in a situation where you have something they can look at and say, "That is what I am deciding about."

I have a speakers' list which is piling up so I am going to shut up for a while.

Mr. G. E. Smith: I would agree with many of the comments but I would like to focus in on what Mr. Worton has said. I think perhaps we could beef up the coverage of question period. The other afternoon, with two or three committees sitting, I think there were only six members in the House, about two in each caucus, while some matters, which we assume were important, were being discussed.

11 a.m.

It would seem that if we adopted this motion as it is, at least without taking it back and discussing it with our caucuses, as Mr. Newman has said, there could be some problems in televising all of the proceedings the way our system is operating at the present time. It could be embarrassing to the whole parliamentary procedure in the Legislature and to all caucuses, because there would be no explanation that the reason there were so few members in the House was that there committees were sitting concurrently.

I agree with the principle of what you are saying, but to have the actual wording say that permanent coverage should be introduced for all proceedings, I am not enthusiastic about that at this point. I think we could well give full electronic coverage to the question period which, after all, is really what most people really watch, I think, as far as the federal House is concerned.

I would like to have the opportunity, along with the members of the committee from our caucus, to go back and discuss it and

report. I suggest that we have another joint meeting in two weeks and bring it to a head at that time.

Mr. Rotenberg: Mr. Chairman, I have some questions of you, and possibly I could get a comment from you.

By the precedents of Ottawa and other places that do it, electronic Hansard really means that the government is assuming the capital cost and the important costs. Are the networks, the private media, charged a fee? Is there a recovery of those costs in the other locations? Has there been any discussion in our discussions about charging the other ones, or are they going to get a free ride?

Mr. Chairman: It can be done in a variety of ways. The federal House has taken on responsibility for the production facilities themselves. The networks and anyone, I guess, can buy the feed which comes off that.

Mr. Rotenberg: They buy it; they do not get it free?

Mr. Chairman: It is my understanding that in the federal House they are basically charged for the actual tapes themselves and for nothing else. The Alberta Legislature does it in a different way, and so does Quebec. That is why, in the motion that is before you, we did not address ourselves to that.

It is conceivable and possible to devise a system that in effect pays for itself; that you charge the networks production costs and for tapping into the feed or whatever. In most of the discussions which I have had with people in the private sector, they are quite amenable to that idea. They do not have to send a camera crew out to cover the proceedings; they can simply tap into a feed. They are prepared to do that.

The federal system is perhaps a good model in some sense, although I am not sure that I support the distribution system, which is very expensive. The Alberta system, which is a very simple one, tends to use the private sector to provide production facilities; the Legislature really bears no costs of that. So you could have that option. You could set up a system whereby the Speaker's office runs the machinery and the production facilities. It is free up, to the point that a wire service plugs into the system and takes some feed off that. You can charge them whatever you want.

Mr. Rotenberg: I just want to make a brief comment. I agree we should go back to the caucuses because everybody then can have a more educated vote in this committee, one which will much better reflect what may happen in the House. I listened to the comments and I there are a couple of things I wanted to say.

First, it does not concern me at all if we should have electronic Hansard. They could cover whatever they want. I am not ashamed of how we operate in the House. If there are only eight members in the House, I am prepared to defend that. I don't think we should try to select what does and does not go out. Right now, the public media can come in at any time.

The other side of that coin, of course, and I have heard complaints from people, is that the other night, when the private media televised the Treasurer's speech, it did not televise the opposition party's speech. There were some complaints about that.

I don't think we want any reverse censorship, in that we want to force people to take certain things. It is up to the news media really to select what is or is not valid for the public participation.

I think we may be a little bit guilty of a dose of community conceit in this House in thinking that all the people out there care about what we are doing in here. They care for certain things, but because we are going to have electronic Hansard and put it on cable TV or whatever, don't think there are going to be thousands of people out there running to their TV sets with TV dinners, and shushing up the kids in order to watch what is going on in this Legislature. I wonder what the potential audience is out there and how many people really want to watch us in exchange for all the expense that may go into it.

One of the things we have to consider is whether the private media really does the job, not of what we may want to do to have us out on that boob tube all the time, but what the public really want to see. I think that is the question. You have to be a little bit conceited to be a politician; otherwise you would not be in this business. But I think we are getting a little too far down the road in thinking that the public is waiting, with tongues hanging out, to watch us. I don't think they really care about it.

I just wonder if we aren't going overboard and getting into too big a thing. We have to give consideration to whether the public really wants to watch us.

Mrs. Campbell: The sort of fairy tale approach, which is how many people in my riding see it, makes them feel we are so unreal in this place that it is a pleasant diversion.

Mr. Rowe: If you will recall, Mr. Chairman, the TV room, or wherever they have all the machinery up there so they can keep an eye on the floor, the only possible place, with our physical structure, where that could be, would mean you would have to take out that wall where the clock is and build a room. I am not sure what is behind that wall now, but that is about the only place where you could have all the control equipment which is necessary to operate.

The cameras in Ottawa are controlled. They have to be controlled. They don't go flashing around the House showing the empty seats; it is focused on whoever is speaking at the time.

Mr. Chairman: The Argonauts should have that kind of control when they televise the games at the stadium.

Mr. Rowe: The physical facilities are something to contend with in our Legislature. Ms. Bryden mentioned that if this House increases in numbers, how are they going to do it? Any thought along that line should be taken into account at that time.

Mr. Rotenberg: If I could just finish my question, Mr. Chairman, I have a point I wanted to make. I do not mind people commenting. The local councils in Metro have live TV on cable TV. I wonder if anyone has ever done any kind of a survey to try to ascertain what the viewing audience of that might be. It might give us an indication. I know we consider ourselves to be a different breed than the local councils and far more important, but in the public mind I am not sure whether that is so.

Maybe some survey on the viewing audience on cable TV of the borough and the city councils, which are out there all the time, might give us some indication of what, if any, is the public demand for this service.

Mr. Chairman: I have seen some surveys from the Quebec National Assembly, which indicate that at certain times when the debates are really interesting--for example when they were going through the referendum debate--the most watched television program in Quebec was the debates in the assembly.

Mr. Rotenberg: That was once in how many years?

Mr. Chairman: True, but it has remained consistently a very popular television programming source. I am not sure in our considerations whether we go to that or not. We basically decide that our angle is we want to get into a ratings war, and if we cannot compete with "Dallas" we should not have electronic Hansard.

I think we would have to limit our concerns to something which said that it is for our purposes here a sensible and a rational thing to do. If you took the same approach over printed Hansard, you would have to admit that even the Toronto Sun has better readership than the Hansards from this House; and if that were your criterion, you would stop printing the Hansards. I don't think you can do that.

Mr. Rotenberg: Hansard is a tool that we use far more than any member would use electronic Hansard. We are talking about spending massive amounts of public money. That is not the only reason, but you have to give some consideration to whether that is being well spent to service the public.

11:10 a.m.

Mr. Chairman: Okay. I have a couple of other speakers I want to get on.

Mr. Mancini: Mr. Chairman, could we turn the cameras on?

Interjection: They won't be able to see you on camera you're so small.

Ms. Bryden: Mr. Chairman, while we are on statistics, I have some here I would like to read into the record at some stage. I wonder if this would be an appropriate stage.

Mr. Chairman: How about we let Mr. Mancini and Mr. Ruston get their comments on the record and then we will have them.

Mr. Mancini: Being one of the members of the procedural affairs committee who has supported the implementation of electronic Hansard, I certainly do support the motion that has been put before us today.

I can recall not too long ago during the estimates of the general government committee when the Speaker was before the committee, I brought the electronic Hansard matter up at that time. He told the committee that as far as he was concerned there was no support by the members of the House for electronic Hansard.

I think that is one of our biggest problems. The people who would have to implement the system do not know whether we want the system or not.

Like you, Mr. Chairman, I believe we have had a lot of time to debate this matter. We have had the commission's report of 1975. This matter has been discussed intermittently several times. I am glad we took the opportunity to see the operation in Ottawa. I am glad I had the opportunity to go to Alberta and see their operation. I think it could work very well here in the Ontario Legislature. I basically believe it is something the public wants.

These problems that have been brought up by other members are real problems. We cannot minimize those problems, but they can be overcome. I believe the technology is available today to overcome some of the problems of space and possibly cost, but I am not absolutely sure about that.

As far as the interest of the general public, just to give you an example: in one of the towns I represent, Leamington, they have full TV coverage of all their town council meetings. They have a cable TV station there. At every council meeting held the system is implemented and it is shown. I run into a lot of people who watch the meetings.

When the debates concerning the constitutional issue were broadcast, they also were covered by the cable station that covers part of my riding. Many people commented to me that they were pleased by the participation of many members in the debate and they liked basically what they heard. So I do not think the members should fear that no one would be interested or no one is concerned. We are passing laws, we are debating regulations and we are doing things that affect people's lives. We should give the people the opportunity, if they wish, to see first-hand what is going on.

So I support the motion. If it is felt we have to go back to the caucuses, that may be what we might have to do. But I would think we could pass the motion and still go back to the caucuses, because eventually, even if we do pass the motion today, if there is enough resistance from the individual caucuses to the implementation of this, it is not going to be implemented anyway. As a matter of fact, if there is a lot of resistance from the government, it is not going to be implemented anyway.

But these two committees must focus themselves on exactly what we want. All we are saying is that we would like steps taken

for permanent coverage of the Legislature in the electronic sense. If we keep batting this back and forth from one committee to another and from one meeting to another, time is going to pass; we are going to adjourn for the Christmas recess; we may or may not come back for spring session; and who knows?

I would say: Let's get the ball rolling. The need is there. The public would watch and would be very interested in what goes on here; and we would be fulfilling part of our duties.

Mrs. Campbell: I would like to point out: If you read the paper by Mr. Pettifer, the Clerk of the House in Canberra, where he deals with televising of proceedings of the House of Representatives there, he states:

"The Canadian experience: ...Demand for the televised proceedings shows no sign of falling off and, in fact, is increasing. A weekly television 'wrap-up' of parliamentary highlights produced by the Canadian Broadcasting Corporation and televised on Sunday afternoons has rated 900,000 viewers. A similar 'wrap-up' in the French language on a Saturday morning reached 250,000 viewers."

The record ought to be clear. I am sorry Mr. Rotenberg left and did not have that. But it is in the material provided by members' services.

Mr. Ruston: I have certain reservations. But the real problem I think has been mentioned by Mr. Worton and Mr. Newman. The problem is that so many of our operations are done in committee. Mrs. Campbell mentioned this too.

I have always felt we abandon the House after the question period. It is like a mass exodus; you would almost think a bomb was dropped and everybody got out. Of course, there are committees to look after. But it is not just the committees. Not all the members are on committees and some of them do go back to their offices to make that last telephone call to somebody.

I do not know if it could be done in this way, but I would like to see some way of leasing or contracting out the question period for a six-month cycle and put it on TVOntario and see what the response to that was after six months.

I cannot imagine that House camera would be running--and I know it runs in Ottawa and they have committees too--but I really think they do a little more business of significance in the House than we do.

I have seen it deteriorate here so much in my 13 years that I am beginning to wonder whether I really am a member any more after the question period. The committee I am on does not sit at that time, so I do spend most of my time in the House, seat-warming, but it is a problem. I just cannot imagine people turning off "The Edge of Night" or "General Hospital" and watching that. I know my wife is not going to. And I am sure there are thousands out there who will not either. But they might watch the question period. If question period was on, it might create some

interest in the public and inform the public, which is part of the job we should be doing; we should be informing them.

I happen to feel very strongly that the news media itself does not inform the public. I have a great reservation about our freedom of the press. I think it is a bunch of hogwash. It is the freedom of what the press wants to print, and I don't think too much of it.

The problem I see is that CBC is a government-operated agency and now we have TVOntario. And, of course, then you end up government operated and operated the way, to some extent, that governments operate. I have a great reservation about getting into the news media in any way.

I guess it is a very difficult decision, but I really think we should be looking at the possibility of leasing, renting or hiring one of the cable companies to put on question period for a six-month cycle and see how it works out. That way you would not be getting involved in any major expenses and we could get a response on how it would work. But that is just a personal opinion I have.

Mr. R. F. Johnston: Did Ms. Bryden want to read anything?

Mr. Chairman: Let's give everybody one trip around the block and then we will do whatever we are going to do.

Mr. R. F. Johnston: I speak in favour of the resolution. I think it is an important step to be taken in the House.

I want to comment on a couple of things Mr. Rotenberg said. As far as I know, there have been no surveys done on Metro council's viewership in terms of the cable broadcasts. There is a real problem doing it and the cable companies are unable to handle that sort of thing themselves. So I doubt there has been anything done in terms specifically of that.

11:20 a.m.

However, I do know, from speaking to councillors, a number of them get a lot of feedback from constituents on the proceedings of city council especially.

The other angle is, this summer, when we had the constitutional committee, all of a sudden one day the cable people arrived in committee and set up for a couple of weeks at least, maybe even more, Mrs. Campbell. They were there throughout all of that time.

The argument that that had to be some of the drier, for the most part, kind of debate that one could run into is certainly evident. But I had any number of people speak to me about the fact that they had watched it. Not all of it; they are far too sensible for that sort of thing. But people with converters, for instance, had been flicking through and had seen it and ended up watching for 15 or 20 minutes, a portion of the debate, and had seen

various kinds of battles that had gone on between individual members. I was quite surprised.

I asked the cable company then whether or not they were doing any follow-up to see what kind of response there was, and again, they said they were unable to do the kind of surveying which would show viewership, but that they had been having calls, and like the members of the committee had had a fair amount of response.

My feeling is that the popularity of the federal question period is evident. I was very surprised at the number of people watching the wrap-up on Sunday of the CBC on the federal House. That is a very high viewership. It is remarkable, 900,000; and 250,000 and 200,000 in Quebec is a very large number of people to be watching that.

I would think it behoves the House to get involved in this at this stage. We are all very aware of the separation of this place from the reality of the province and that it is a two-way street. At the moment, our major means of getting out to the people of what actually goes on here and the work that is done here, is through the media and through the selectivity the media has to show in terms of what it wants to report on.

First of all, I do not think that reflects the work which is done by back-benchers and the kinds of questions which are actually raised in question period in the House, and it certainly does not reflect the kinds of things which go on in committee and the work which is done in the Legislature on a day-to-day basis.

If we want to close the gap between the unreality of this place and the reality of the province, I would suggest that one of our best vehicles for doing that is in providing, as unedited as possible, a version of what goes on here. Then people will know the arguments, and maybe some of our behaviour would shape up and improve, and our responsibility in a number of areas should not be overlooked as well.

Whether this goes back to caucuses or not and in what form it goes back--a resolution would obviously have to go back to caucuses before it comes before the Legislature again--I think this is an area we should be moving into. If we do not move, then we are really out of step with the times altogether.

Mr. Charlton: I would like also to speak in support of the resolution. There seems to have been a fair bit of discussion here today about whether or not there is any viewership out there at any given time, and you get comments such as, "Would we really be able to compete with 'Edge of Night' or whatever else?"

It seems to me that if we had a complete electronic Hansard, it would be very unlikely that all of what was produced would be going out obviously. We are not going to tie up anybody anywhere 24 hours a day, 12 hours a day or anything else.

On the other hand, I am one of those who has noticed that from time to time when we are debating something in the House,

even when there are only eight members in the House, there is increased public interest in that particular debate. You just have to look up to the galleries and you know when you are debating something that the public is interested in and when you are not. Obviously, if we put out broadcasts from this place on debates on the Line Fences Act, the viewership may not be too great.

Mrs. Campbell: Or the Warble Fly Control Act.

Mr. Charlton: Or the Warble Fly Control Act. But, we have seen debates around here which are well attended and the level of public interest is high.

It seems to me that if, for example, question period was going out, there would be certain people who would watch that, and if, from time to time, other debates went out from here, even if the individual audience was not that great given that each debate may have a different audience, you are serving the public in a particularly important way. In the same way that certain debates attract crowds here, certain debates would attract crowds on the media as well and the audiences are not necessarily the same.

To talk about how many people watched an individual viewing of a debate on a bill here is an inaccurate and not completely useful way of determining what your viewership is.

Mr. Johnston mentioned that people watch cable company productions of city council and borough councils here. On a fairly frequent number of occasions, we have broadcasts of city council and regional council in Hamilton and on a fairly frequent number of occasions, people have commented to me about the one they watched last Tuesday. People know how councils work. If there is something particularly controversial or annoying going on at council which is getting publicity, people will sit down and watch the cable show of that council meeting.

The same thing will be true for things that go out from this Legislature. If we, as members, are getting across to the public the things which are being debated, then there will be people watching some of those debates because that is an area they happen to be interested in or upset about, or whatever the case happens to be. I think there is a very substantial public service to be provided by the use of electronic Hansard here, and to try to base it on viewership at any given moment is not an appropriate way to try to gauge its usefulness.

Mr. M. Davidson: Mr. Chairman, it has often been said that progress in this place moves slowly, so slowly, in fact, that at times it could be suggested that one could not even see the wheel turn. I suspect this is one of the items where this holds true, particularly in view of the fact that it has been going on for something like 10 years and that there have been any number of committees which have put forward recommendations to the House. The House has voted on them and we are now at the point that we are trying to introduce a motion that this joint committee could recommend to the Legislature so that a debate could take place and some intent on the part of the members of the House could be

recognized by those responsible for the introduction of electronic Hansard into the Legislative Assembly.

I am not one of those who believes that by having electronic Hansard, my family, particularly my wife and my six kids, would immediately drop everything to watch the coverage of the Ontario Legislature.

Mr. Rotenberg: Only when you are on.

Mr. M. Davidson: I do not think that is true.

Mrs. Campbell: Your grandchildren would.

Mr. M. Davidson: If my wife had a choice between "Eight is Enough" and the Legislative Assembly, I think she would probably choose "Eight is Enough." Having said that, I think there are a large number of people out there who do have an interest in what takes place within this building.

I think particularly of the coverage of private members' hour where many of the resolutions and bills are brought forward by members, in many cases, which are relative to the area that person represents. I would think if there was an electronic coverage of that proceeding, the member could make known in his area that his bill was to be debated on such and such a day. I am quite sure that would get a great deal of viewing audience in that given area and pick up what normally would be looked at from other people within the province.

11:30 a.m.

Let us not fool ourselves into believing that people out there are not interested, and let us not view this, as I believe both of the chairmen suggested earlier, only as to the cost factor. We, as members of the Legislative Assembly, supposedly provide a service to the public. I would view the introduction of an electronic Hansard as one step more in providing to the public a service that would indicate what it is that we are doing within this building.

It does not matter whether there are eight or nine, as Mr. Rotenberg suggested. I could defend that and I defend it quite easily when I get students down here viewing what is going on. If they get that 2:30 to three o'clock session in the House and all at once they see everybody running out the door, they say, "My God, what has happened, where is everybody going?" It is not difficult to explain to them that there are committees meeting throughout this building and that the business of this Legislature and of this province is so great that it requires more than one room in which to conduct that business and members devote a great deal of their time, either in the House itself or in committees, to the handling of the business of this province and they understand that.

I think we, ourselves, are a little reluctant on occasion to make that known to people. If anyone had ever suggested to me, even prior to me being elected here, that I was going to spend from two o'clock in the afternoon to 10:30 in the evening just

sitting in my seat up there in the Legislative Assembly, even I at that time would have thought they were absolutely ridiculous; that nobody is going to sit there for that length of time, there must be other things that have to be done. It is true, there are other things that have to be done and I think the majority of people understand that.

There is a reluctance, and I can understand it, on the part of this government or any government to be honest with you, to have the entire proceedings recorded. I think part of that is printed in this document by Richard Price and Harold Clarke where, for example, there are comments such as: "Television is probably a disadvantage to the party in power. This medium makes the opposition look like they are driving and moving; the government looks defensive and indecisive. Moreover, opposition MPs phrase their questions to make mini speeches and/or set up trick questions like, 'When did you stop beating your wife?'" And then, it says, and this is a Liberal speaking, "If the PCs get into power, then we will be able to attack."

Those of us in this assembly have as much opportunity of falling flat on our faces in front of television cameras as anyone else, and I suspect that is part of the reluctance by some members to not look at this in a serious light. I am not one of those. I have fallen on my face many times, and many times in front of people, but that does not concern me. What concerns me is that this is government business, this is the running of the province and we are supposedly the people here doing that job and I think we have an obligation to the people of Ontario to show them how we do that job and do it in the best way we possibly can.

It is all well and good to say we should take the motion back to caucus before we bring it back to another joint meeting and pass it then. I am a little concerned about that. I would think, and I am not suggesting this is true but this is the way I would view it, that if this motion were to go back and be discussed within the various caucuses, there are individual members in all caucuses who are very strongly in support of this. It may well be, however, that there are just as many who would be reluctant to pass this motion and the votes in those caucuses may be very close, but you would then be taking a caucus decision to the House.

I think we, as members of this joint committee, should not be reluctant to pass this motion. It can then be discussed in the caucuses and they could find out whether or not there is that kind of a division. The real intent of the motion is to get the matter before the Legislative Assembly and I would hope that all caucuses would allow a free vote by the members on the issue. If we are to give direction to the people responsible for the electronic Hansard, it can only be through a free vote on the part of all of the caucuses so that each individual member can stand up and say, "Yes, I do support the principle of the introduction of electronic Hansard," or, "I do not." That is the only way that we will get a true reading of the feelings of the members of this House and that reading can then be directed to those responsible for introducing the project.

Mr. Chairman: Now we have had an opportunity for each member of both committees present this morning to voice an opinion. I am going to test the waters by simply asking is there anyone here who is prepared to move this recommendation?

I would like all members to be aware of the specific recommendation: That the standing procedural affairs committee and the members' services committee, meeting jointly, recommend to the House that immediate steps be taken to introduce permanent coverage of the proceedings of the Legislature by television and radio and the control of and responsibility for such coverage be under the authority of the Speaker.

That would mean that you would have that recommendation to take to your caucuses; that this recommendation from both committees, if it would carry, would get printed; due notice would be given to all members; a debate would be scheduled and a vote of all members would be taken.

I am asking if there is anyone here who is prepared to move such a motion.

Mr. M. Davidson: Mr. Chairman, I would move the motion.

Mr. Mancini: I would move the motion.

Mrs. Campbell: We have two movers.

Mr. Chairman: Let me test the waters.

All those in favour of the motion please signify by raising your hands.

Those opposed to the motion please signify.

Those in favour of the recommendation, I count five; opposed to the recommendation, I count six.

Motion negatived.

Mr. Chairman: The motion is defeated unless you would care to cast the tie vote.

Mrs. Campbell: I cannot cast the tie vote. What is my role here? As a co-chairman, can I vote on it?

Mr. Chairman: We have a little procedural problem here. Normally the chair does not vote. I would assume the responsibility--

Mrs. Campbell: Only to break a tie, not to make it.

Mr. Chairman: I would assume the responsibility of chairing the session since I accepted the motion, and I would allow Mrs. Campbell the opportunity to vote on it if she should choose to.

Mrs. Campbell: If I am allowed, in favour.

Mr. Chairman: That puts it up at six, six.

Mr. Watson: I question the ruling of the chair on that procedure.

Mr. Chairman: Let me clarify it. I take it that you have challenged the chair on whether Mrs. Campbell has a right to vote.

Mr. Watson: I do not sit here and vote on that with the expectation that either co-chairman is going to vote on this now.

Mr. Chairman: The chair has been challenged on whether Mrs. Campbell has a right to vote. We will put that matter without debate.

Those who support the chair will indicate; eight.

Those opposed to the chair's ruling, four. The chair is upheld.

There is a tie vote, which leaves me in a bit of quandary as well. A tie vote does mean that the recommendation does not carry. Traditions and precedents in this House, in the chamber and in committee, would indicate that you cannot carry a recommendation by a tie vote, so the recommendation does not carry.

It would be up to the members if you choose now to reinstitute this on individual committees. You may, if you want, have a second committee. You may simply leave it as it is. Those are the options as I see it.

Mr. Mancini: Mr. Chairman, let us not lose the whole thing here. If this motion has been defeated, can we then change the motion or make a new motion whereby the representatives of each caucus take the matter back to their caucus for a meeting two weeks from today? Then we will vote on the original motion that was not passed.

Mr. Chairman: It would be my ruling that you have several options at your disposal. You may indeed take this back to your own caucuses, which is not a concern of either of the committees involved here, and come back to a second meeting if you want. That is conceivable and, if you wish, you may do that.

Mr. Rotenberg: Excuse me, Mr. Chairman, but I thought if we did it by way of motion it would give more authority to what we were doing.

Mr. Chairman: Yes, that is clearly an option which is open to you.

Mr. Rotenberg: I agree with the principle of what Mr. Mancini says, but I do not think a motion before a committee should refer to caucuses. I think simply the motion should be this matter should be tabled, deferred or whatever the proper word is, and that we meet again in another two or three weeks to discuss the subject. That is, I think, the kind of motion that should be here.

Mrs. Campbell: That motion really was made by Mr. Smith, almost at the beginning of this meeting.

Mr. Rotenberg: I really do not care who makes the motion. If Mr. Mancini would put that kind of motion, I would be quite prepared to support that motion without--

11:40 a.m.

Mr. M. Davidson: There is a question as to whether you can table the defeated motion.

Mr. Rotenberg: We are not tabling the motion, we are tabling the discussion of the matter. The motion has been defeated; the matter is still before us. Because one motion has been defeated does not mean the whole matter is defeated.

Mr. M. Davidson: It has been before us for 10 years.

Mr. Rotenberg: What I am suggesting is that Mr. Mancini word a motion which, in effect, just defers this either for two or three weeks--maybe three might be better than two, but I am not fussy--

Mrs. Campbell: And what?

Mr. Rotenberg: Just defer it for this joint committee to meet again. Everybody understands what it is for. I do not think this committee should be telling people what to do as far as their own caucuses are concerned. They are not official bodies of this Legislature.

Mr. Chairman: Any further discussion on the matter?

Ms. Bryden: On a point of procedure: Have you ruled that when there is a tie vote the chairman does not vote in any committee of this Legislature?

Mr. Chairman: No, that is not the ruling. Let me clarify the ruling. The ruling and the precedents of the House are that a motion cannot carry by the chairman's vote. There was a tie vote here and it is deadlocked. If I were required to cast a deciding ballot, I would vote in the negative because the precedents are that you cannot win a vote by the chairman's vote.

Ms. Bryden: And we have no record of a committee where the chairman has cast a vote, perhaps not realizing what the precedents were?

Mr. Chairman: Yes, there are precedents in that manner.

Let me review for you the status of all this wonderful stuff. A recommendation was put to a joint committee. The recommendation did not carry. It would be in order to move the joint committee meets in two or three weeks' time or whenever and the subject matter for discussion would be electronic Hansard. If you like, you could put the recommendation again. The

recommendation was not defeated but it did not carry, so it could still be considered as on the table.

I will not entertain a motion which refers to caucuses because that is outside the jurisdiction of the committee. Basically, what would do the job would be a simple motion that the joint committee reconvenes in a set time period for purposes of discussing electronic Hansard.

Mr. Mancini: I would like to move this committee reconvene two weeks from today to discuss the same resolution that did not carry today.

Mr. Chairman: We cannot do that.

Mr. Mancini: To further discuss the matter of electronic Hansard.

Mr. Chairman: Mr. Mancini moves that the joint committee reconvenes in two weeks' time. The purpose of the meeting is to discuss once again electronic Hansard.

Are you ready for the question on that?

Ms. Bryden: I would like to speak to that, Mr. Chairman. I am in favour of the motion, but I think there is the additional fact that we really do need more information about audiences. There were several questions on that. I was going to cite some further statistics, but I now realize we do not have a lot of the statistics we need.

I would like to suggest, maybe as a separate motion after this or as part of this motion--whatever you think--we request our staff to obtain information on further audience surveys, on the use of the feeds, the number of feeds that are sold, the number of cassettes sold and that sort of thing; and also to contact the cable companies as to what they estimate their audiences to be.

If that requires a separate motion, I would be glad to move it. If not, I think it should be part of the reason for reconvening two weeks or three weeks hence, whatever time it takes to get some of that information, and that we request the staff to get information on further surveys beyond the one Mrs. Campbell cited, cable company surveys and any surveys from other jurisdictions where they have had an increase in interest.

Mr. Chairman: We do not require a motion for that. The chairman would take direction from the committee that you want further information and we will get whatever we can and put even more paper in front of you.

Are we ready to vote on Mr. Mancini's motion to reconvene in two weeks' time?

Motion agreed to.

Mr. Chairman: The committee stands adjourned until two weeks from today.

I would ask the procedural affairs committee to stay for an informal chat for a couple of minutes. We do not need Hansard for it; we could just kind of huddle.

Mrs. Campbell: I would like to see if the members' services committee would just meet briefly. You have all received the material from Mr. Wiseman by now, I think, haven't you? I would like to see what you want to do with it.

The committee adjourned at 11:44 a.m.

Lacking P-27, 1980

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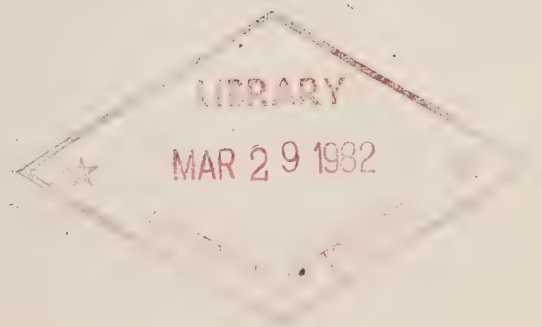
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JOINT MEETING OF THE STANDING COMMITTEE ON
PROCEDURAL AFFAIRS AND THE STANDING COMMITTEE ON
MEMBERS' SERVICES

ELECTRONIC HANSARD

THURSDAY, DECEMBER 4, 1980



STANDING COMMITTEE ON PROCEDURAL AFFAIRS

CHAIRMAN: Breagh, M. (Oshawa NDP)
VICE-CHAIRMAN: Davidson, M. (Cambridge NDP)
Charlton, B. (Hamilton Mountain NDP)
Mancini, R. (Essex South L)
Rotenberg, D. (Wilson Heights PC)
Rowe, R.D. (Northumberland PC)
Ruston, R.F. (Essex North L)
Sterling, N.W. (Carleton-Grenville PC)

Research Officer: Eichmanis, J.
Clerk: White, G.

STANDING COMMITTEE ON MEMBERS' SERVICES

CHAIRMAN: Campbell, M. (St. George L)
VICE-CHAIRMAN: Newman, B. (Windsor-Walkerville L)
Bryden, M. (Beaches-Woodbine NDP)
Jones, T. (Mississauga North PC)
Smith, G.E. (Simcoe East PC)
Watson, A.N. (Chatham-Kent PC)
Worton, H. (Wellington South L)
Young, F. (Yorkview NDP)

Substitution:
Johnston, R.F. (Scarborough West NDP) for Mr. Young

Clerk: Arnott, D.

LEGISLATURE OF ONTARIO
STANDING COMMITTEE ON PROCEDURAL AFFAIRS
AND
STANDING COMMITTEE ON MEMBERS' SERVICES

THURSDAY, DECEMBER 4, 1980

The committees met at 10:16 a.m. in room 151.

ELECTRONIC HANSARD
(continued)

Mr. Chairman: I see a quorum.

We have one motion prepared at the direction of both committees last week. It is now before you. The basic question is: Do you want to have a long meeting or a short meeting?

Madam Chairman: Short.

Mr. Chairman: Taking direction from the floor.

We have a motion which has been prepared which, I believe, fills the requirement.

Mr. Mancini moves that the Speaker assume responsibility for the immediate introduction of television and radio coverage of the Legislature, under his authority and control.

Mr. Mancini: Mr. Chairman, you may recall at the last procedural affairs committee meeting, I brought up the fact that if we are to turn this over to the House, giving the Speaker responsibility to bring this in, maybe, in the meantime, while they are looking at many ways and avenues as to how a proper, efficient, up-to-date system could be implemented, the Speaker can immediately introduce to the House the same type of system that we had for the constitutional debate. Maybe we could have that kind of coverage which I thought was decent coverage for an interim type of step and will be sufficient for another interim period.

Therefore, the Speaker will not so pressed as to what type of engineering has to be done to the ceiling and how much the total system is going to cost, because I know it is going to be an expensive proposition. It is going to take some time to get it through the House, the Board of Internal Economy and every other body that feels it should have an input into this matter.

So I would like to see the committee endorse those two co-proposals, if possible. If we think that is covered by the motion, fine. If not, we should do something to get it covered in the motion.

Mr. Chairman: It would be my version that it is covered and it would be taken as direction when we proceed with this motion.

Mr. Rotenberg: On the wording of the motion, it seems a bit unclear as to what it is going to do. Mr. Mancini knows what he is talking about or what he thinks the motion says. But just to have, "immediate introduction of television and radio coverage of the Legislature;" we already have television and radio coverage in the Legislature. In a way, it is under the Speaker's authority and control right now, except that it is being, in effect, handled by the private networks.

I think what some people have in mind is that there would be a kind of coverage which the Speaker will actually run and sponsor, the electronic Hansard.

Mr. Mancini: Just like in Ottawa.

Mr. Rotenberg: Now, the motion does not say that, because someone could read the motion without hearing the discussion and say, "Well, hey, we've got that already," because we do have radio and television. They are free to come in. It is under the Speaker's authority and control, because he says where they go and when they move and so on.

With respect, I do not think the motion which is on this paper really says what some people want to do.

Mr. Chairman: To be clear--we have had a lot of debate of discussion--the intent of both committees is to provide the House with an electronic Hansard. We are recognizing it is not possible to do that overnight. In the interim we would take the kind of suggestion which Mr. Mancini has put forward as being acceptable to us.

Any further debate on the matter?

Mr. Worton: I will stay by my earlier decision: If there is any coverage, we should start with a fully covered question period. Our caucus has, maybe, disagreed with my view on it, but that is still my opinion on it and I will stay by it.

Mr. Sterling: I have a bit of difficulty with this issue of full TV coverage in the Legislature. I guess I have more difficulty with the problem as outlined by Mr. Rotenberg, and that is the sort of looseness of what, in fact, we are aiming for here.

10:20 a.m.

The other thing I am concerned about is, number one, the cost that we are incurring in doing this. I think we should know approximately what it is going to cost us. I do not say go ahead to a great, long consultant's report which is going to take a great deal of time. But those figures probably could be given to us in terms of the capital costs and the ongoing costs.

The other thing that concerns me and was brought to the fore when we went to Ottawa was the rules related to the control of the use in the House. I believe the original rules as to the control of the use in the House were set down by their counterpart to our committee, the procedural affairs committee. Without some kind of

rules relating to that, as was evidenced in Ottawa, the director of the particular electronic Hansard there was trying to flex his muscles, it was obvious. He wanted to have more editorial play in what he did. In other words, he wanted to be able to take, in addition to shots on the Speaker, additional shots on other parts of the House of Commons. Those kinds of things have to be not just left to the Speaker's discretion but should be the subject of a committee's concern as well as his, and eventually, of course, the whole Legislative Assembly.

In watching the question period in the federal House, it is important for members to recognize that, in addition to it being an advantage in terms of educational value, the positive end of having this kind of facility in our House, the downside is that there is now the type of freedom that enables a member to control his time more than he would be able to with electronic Hansard.

As you can well remember, during the constitutional debate, I felt it was a bit of a farce when we go from one speaker to the other speaker and immediately we would have 10 or 15 members rush in and sit around the member who was speaking.

I question whether we can sustain that kind of thing on an ongoing basis in our Legislature. I wonder whether or not we are not being careful enough in going into it.

There is serious concern in my caucus, Mr. Chairman, with the cost aspect of it when we are, supposedly, in a period of economic downturn. There is a large concern with spending \$10 million or \$15 million on this kind of project, if that is what it is going to cost.

Madam Chairman: Mr. Co-chairman, I wonder if we could get this procedure clarified. Last week we had an in-depth discussion about the merits of the matter. It was my understanding that each of us was to go back to the caucus and bring back today the result of the caucus decisions.

If that is the case and if that has been done, as it has been done in the Liberal caucus, I would report I invited our whip to report, but he was not present, I think, at the discussions. But I think I can say, on behalf of the Liberal caucus, the consensus of the Liberals is that they endorse the principle.

I wonder if we could get to that and then, perhaps, it might be useful, bearing in mind what Mr. Sterling has said, that we invite Mr. Speaker to meet with the committees to discuss the procedures flowing from that.

As far as the costs are concerned, of course, it is like everything else with members' services. We may make policy decisions, but the meat of it is always with somebody else, internal economy or the Management Board of Cabinet, or somebody. So we are used to making policy decisions and then having some other body allocate the costs and make the decisions about costs.

I wonder if now we are in a position where we can report from our caucuses and get on with it, rather than debate all this

morning what we debated all last Thursday.

Mr. Ruston: You are probably right. As Mrs. Campbell has mentioned, the end result of whatever happens from this resolution is really still somewhere out there; we don't know where. If the Lieutenant Governor in Council does not issue the money, I guess we do not build it; it won't be done.

Mr. Chairman: Okay. Along the lines of that, I would report from our caucus that we too discussed the matter and the NDP caucus supports the principle which is being enunciated here.

It is clear from last week's debate, and perhaps we should make it clear again this morning, as far as I am concerned anyway, neither committee has total jurisdiction over this. We are recognizing that clearly and we are recognizing that the matter will be debated by other agencies, other bodies.

The funding mechanism will have to be discussed at some length. I would take it the technical aspects of it would have to be discussed and we are recognizing that. We are looking for a simple enunciation of the principle of whether these two committees support this concept.

We did have a complete debate last week. I do not mean to limit the debate this morning, but it is true that we went around the block on this last week. I think the consensus at the end of the meeting was that many members wanted to have the opportunity of taking it to their caucuses and discussing it there. So we provided for that.

We have a subsequent motion before you this morning and we will give you the opportunity to say yes or no.

Ms. Bryden: I agree that we discussed the merits last meeting fairly thoroughly, but we did ask our research staff to investigate the audience that is coming to the federal electronic Hansard.

Mr. Mancini: A point of order.

Mr. Chairman: On a point of order, Mr. Mancini?

Mr. Mancini: Did we finish with everybody's caucuses reporting? We have had a report from the Liberal representative and we have had a report from--

Mr. Chairman: I have a speakers' list and I take it that the Conservative caucus has dealt with the matter. Do you want to report that--

Mr. Sterling: If you would like to--you recognized Ms. Bryden, so I didn't get an opportunity.

Mr. Mancini: But now we are moving to a different matter. I want to clear up the matter as to the reports from the caucuses.

Mr. Sterling: The position in our caucus, Mr. Chairman, is because the motion, in effect, says that we are going to spend a great deal of money without knowing what, in fact, we are going to spend, because of the economic value and because there are some real concerns as to the overall value of what we are doing, based on some of the research that has been presented, our caucus is opposed to the resolution.

Mr. Mancini: We are not spending a single penny in this motion.

Mr. Chairman: Okay. Let's go back to Ms. Bryden then.

Ms. Bryden: I thought it would be useful to indicate on the record that we did have this report from our research staff on the use that is being made of the federal tapes, both video and audio, and the audience that appears to be the potential, and the result of their research into whether there is any count of the audience for the constitutional debate.

We did ask them to investigate this and I think it is useful to have it on the record that we had this material before us when we were discussing this this morning.

The material indicates that the audience for the federal broadcasts through the CBC stations has been growing steadily over the past three years and now averages about 404,000 each week for This Week in Parliament. The report from the research staff indicates that there are 30 to 40 cable companies that are taking either the satellite feed or tapes or both of the proceedings, and are presumably using those on a regular basis.

10:30 a.m.

The research staff also provided us with a Gallup poll which unfortunately is not very recent. It refers to a 1978 Gallup poll, which showed that very shortly after the electronic Hansard had started in Ottawa, 45 per cent of the population said that they had watched or were watching on a somewhat regular basis the televised sessions of the House of Commons.

Now it is not quite a majority, but I think for the first year it is a very significant group and the fact that the audience for This Week in Parliament has been growing indicates that it is probably is up to a majority now that watch at some time or other.

So I think there is a very real demand for this extension of democracy, which it really would be in my opinion; an extension of the democratic process into the homes of our electorates, so that they can see for themselves actually what is going on in the House, and do not have to have it filtered through the observations of the media, who also have a role to play in interpreting and focusing what appears important to them. But it does give the electorate an opportunity to see for themselves what actually went on. And I think these statistics indicate that there is a very real interest and a growing audience.

Unfortunately we do not have the statistics on the

constitution debate that was broadcast live from Ontario last spring for a whole week, but I understand that audio tapes of it are now in all the libraries of Ontario, and people can go and see any given day or any given speech in that debate. So it is there for history, if the members of the Ontario Legislature wish to consider themselves part of the fathers and mothers of Confederation on the rewriting of the constitution, that is available for history, and I think that is very useful.

Mr. Mancini: Our ego is not quite that big.

Ms. Bryden: So Mr. Chairman, I just wanted to get on the record the results of the research done by our staff. I think it does confirm the need for an electronic Hansard.

Mr. Chairman: Okay, I have had one speaker from each caucus. If there are other members, I don't mean to preclude the debate this morning, but the members' services committee does have other matters which they wish to consider.

Is there anyone else who wishes to speak to the motion?

Mr. Rotenberg: Mr. Chairman, very briefly I take what Ms. Bryden said and turn it around the other way. I have some reservations--aside from the cost of it--of, in effect, having civil servants or the Speaker directing the program and directing what happens with the press. I think if we allow the electronic media in our Legislature, I think it is up to them to shoot what they wish and select what they wish, and be able--

Mr. Mancini: Well, they do.

Mr. Rotenberg: No, they do not. If someone else is controlling it--they must take what shots they wish, not have to take the feed from whoever decides what should go on.

Secondly Mr. Chairman, if there is--this is partly the cost and partly the philosophy--if there is a demand out there for people who want to watch this program, I think again, it is up to the free press, the free electronic media, to come in and do the program and market it and send it out to wherever. Sure cable stations will take free things. They have to fill up their time. But if cable TV had some responsibility to educational TV, or if the networks had some responsibility in the financial side or the production of the programs, I think that would make for a better situation.

I think that, aside from the overall cost, if you don't know what you have reservations about, it would seem to me there is going to be better coverage of this and a co-ordinated coverage. I would think the press, which should be independent of this Legislature, should be organizing some co-operative venture where they can do it rather than have us do it. Because I think they should be the ones to select, not someone appointed by this Legislature, by the Speaker, or some civil servant running the program. I think it should be independent.

Mr. Chairman: Okay, now I have had a suggestion from

staff that we insert the words "permanent and continuing," so that the motion would now read, "that the Speaker assume responsibility for the immediate introduction of permanent and continuing television and radio coverage of the Legislature under his authority and control."

I am going to ask the mover of the motion if that amendment is acceptable to him.

Mr. Mancini: Permanent and continuing? Sure.

Mr. Chairman: Okay, so that is the motion which we have before us.

I would point out to you that what we have is a recommendation coming from the procedural affairs committee. It will go through a joint meeting here this morning on procedural affairs and government services, and will be presented to the House in that way should it carry.

Any further debate on that?

Mr. Sterling: Mr. Chairman, I only have to respond to Ms. Bryden's comments about the statistics, and I must say that when I look at the statistics, I don't come to the same conclusions. I don't think that you can look at those statistics and say that anything is growing in terms of the viewing of the federal Parliament, although the absolute numbers appear to be.

I do not know how that is reflected in the increase in the viewing audience and all the rest of it. I think it is holding its own in terms of the number of people that are there and perhaps there is a slight increase. But I don't want to pick over those particular matters, but there was also nothing mentioned about the negative and the positive effects of the people who watch the programs as well, and there are a lot of negatives involved in those statistics.

So there is a downside to those statistics as well as an upside.

Mr. Mancini: People have a right to feel negative.

Mr. Sterling: Certainly they do.

Madam Chairman: It may smarten some people up.

Mr. Sterling: It very well may do that, Mrs. Campbell. That may be the greatest value of the whole shooting match. I think that that would be the greatest value.

But at any rate, I think I have summarized before our feelings on the matter. We don't think that we can go ahead without having some kind of cost benefit.

Mr. Chairman: Okay, any further discussion? Ready for the question?

On the procedural affairs committee, those who are in favour of this motion, please signify by raising your hands.

Those who are opposed?

Motion, as amended, agreed to.

Mr. Chairman: On the joint committee, if I might be so bold as to call that. Those who are in favour of the recommendation?

Those opposed?

Motion agreed to.

Mr. Chairman: Any further business of the joint committee meeting?

The joint committee meeting is adjourned. I now turn the entire room and all of its facilities, without coverage, over to the members' services committee.

Just before the procedural affairs committee abandons ship, we are proposing that next week we will try to do those procedural matters, those changes to the standing orders which are simple in nature, wording changes or things which can be given a yes or no answer. So we will be able to deal with the large number of things which have been referred to us in short order.

Those matters which are lengthy in nature, which require a good deal of discussion, we will attempt to set over until next spring. So that's what you will see next week.

The procedural affairs committee adjourned at 10:38 a.m.

After other business:

The members' services committee adjourned at 10:40 a.m.

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